THE UNITED STATES FEDERAL INTERNAL TAX HISTORY FROM 1861 TO 1871

A THESIS

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DOCTOR OF PHILOSOPHY

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TO MY FATHER AND MOTHER
EDWIN AND MALINDA HUSTON SMITH

NOTE

To Professors E. W. Kemmerer, A. S. Johnson, and to Miss Mabel Estella Smith the writer is indebted for valuable aid in preparing this essay.

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THE UNITED STATES FEDERAL INTERNAL TAX HISTORY FROM 1861 TO 1871

CHAPTER I

INTRODUCTION

THE internal revenue system of the United States, during the Civil War period, was essentially a new creation. The United States during two periods, from 1791 to 1802[1] and from 1813 to 1817,[2] had indeed had some experience with internal revenue taxes. Since 1817, however, excise, stamp, income, and direct property taxes under the Federal Government had been absolutely unused. From 1834 the United States had been in the unusual position of a great nation with practically no public debt.[3] Governmental expenses had been met principally from customs duties, supplemented by the proceeds from the sale of public lands. When the revenues for a brief period were insufficient, temporary loans were secured and thus no internal tax laws were needed, not even during the years of the war with Mexico. During the years of peace the national income often exceeded the national expenditures, down to 1857, and when it did not, the balance from previous years was usually sufficient to make up the deficit. In this period of forty years, it was necessary fourteen times either

[1] Act of March 3, 1791, 1 *U.S. Stat. at Large*, p. 199. Repealed April 6, 1802, 2 *U.S. Stat. at Large*, p. 148.

[2] Act of July 22, 1813, 3 *U.S. Stat. at Large*, p. 22. Repealed December 23, 1817, 3 *U.S. Stat. at Large*, p. 401.

[3] *Finance Reports* (1827–36), p. 465. In 1835 the debt was reduced to $37,513, and at no time from 1828 to 1860 was it over $70,000,000. *Ibid.* (1873), p. 9.

to issue treasury notes or to raise loans,[1] but the revenues of succeeding years were sufficient to restore the balance in favor of the Government.

The public debt, when President Pierce came into office on March 4, 1853, was $69,129,937.27 and was in a short time increased by $2,750,000 to liquidate the debts of Texas, making a total of $71,879,937.27. When the Registrar of the Treasury made his report on November 15, 1856, this debt had been reduced to $30,963,909.64. In making this reduction $40,916,027.63 had been paid on the principal, and $4,609,882.31 had been paid for premiums on portions of the debt redeemed before maturity, making a saving to the Government of $14,606,441.39.[2]

Because of this rapid reduction of the public debt and an almost constant surplus in the Treasury, it was thought that some of the tariff rates might be lowered and a law to this effect was passed in 1857.[3] This law went into effect July 1, and shortly afterwards a commercial and banking panic came upon the country. This crisis was not confined to the United States, but was felt in other countries also. The banking system of America tended to make it worse here than elsewhere, while it lasted.[4] In August, 1857, the Ohio Life Insurance Company failed with large liabilities to Eastern institutions. This caused a panic in New York

[1] From the reports on finances made by the Treasurers of the United States from 1817 to 1857 the following is secured: In 1818, 1820, 1828, 1829, 1831, 1832, 1834, 1845, 1854, 1855, and 1857 there were deficits, but sufficient balances from previous years to meet them. In 1821, 1824, 1825, 1837, 1838, 1839, 1840, 1841, 1842, January to June, 1843, 1844, 1847, 1848, and 1849 the deficit was met by issuing treasury notes or securing small loans.

[2] *Finance Report* (1856), p. 66. The sum of $20,160,657.84 would have been required as interest if the debts had not been redeemed before maturity. The interest paid was $944,334.14, which with the premiums amounted to $5,554,216.45, which, subtracted from the interest which would have accrued, shows a saving of $14,606,441.39.

[3] Act of March 3, 1857, 11 *U.S. Stat. at Large*, p. 192.

[4] Hyndman, *Commercial Crises of the Nineteenth Century*, pp. 73–81. Our great agricultural resources rendered the revival more rapid.

and a suspension of specie payments followed. Also a number of important railroads, including the Illinois Central, the New York and Erie, and the Michigan Central, went into bankruptcy.[1] The most significant result of the crisis from the point of view of public finance was a rapid reduction of imports, which, with the reduced rates, caused a very speedy diminution in the national income. In fact, the income fell so low that in December, 1857, Congress found it necessary to resort to the issuing of treasury notes to the extent of $20,000,000.[2] In June, 1858, the Government was still running behind on current expenses, and Congress authorized the President to borrow on the credit of the Government a sum not to exceed $20,000,000.[3]

In his annual report to Congress in December, 1858, Secretary Cobb suggested that the tariff schedule be revised so that greater revenues would be secured. He also expressed the opinion that some unnecessary expenses might be cut off and thus the demands upon the Treasury be reduced.[4] As the imports, however, had already begun to increase, Congress was rather optimistic and thought that in due time the revenues would be sufficient to meet all current expenses and to discharge the public debt. Therefore, Secretary Cobb's suggestions were disregarded, and nothing was done either to increase the revenue or to decrease expenses.

The treasury notes that had been issued under the Act of December 23, 1857, were to be redeemed within one year or to pay six per cent interest from the date of maturity. When they began to fall due in 1858 and 1859, there was no money in the Treasury with which to pay them. The Secretary was opposed to adding to the amount of the perma-

[1] Dewey, *Financial History of the United States*, pp. 262–63.
[2] Act of December 23, 1857, *11 U.S. Stat. at Large*, p. 257.
[3] Act of June 14, 1858, 11 *U.S. Stat. at Large*, p. 365.
[4] *Finance Report* (1858), p. 7.

nent public debt by funding these notes. Changes in the revenue laws could not be expected to furnish funds sufficient to meet all these notes as they fell due. He suggested, therefore, that Congress should provide for the raising of additional revenues to meet part of them and authorize the reissue for another year of such portions as the Government would be unable to redeem.[1] Congress made no provision for additional revenue, but before it adjourned in March, 1859, it authorized the President to reissue these notes until July 1, 1860.[2] As the national income was not at that time sufficient to redeem the notes, a law was passed to fund them.[3]

By this law, enacted June 22, 1860, the President was authorized to borrow not more than $21,000,000, on the credit of the United States, by the issue of stocks bearing not more than six per cent interest, to be repaid in not less than ten years nor more than twenty years. In negotiating this loan the Treasury followed the policy of securing the money at such times and in such amounts as was needed to meet the treasury notes as they fell due. It avoided by this method the paying of interest on money held idle in the Treasury for the redemption of the notes not yet due, which the Treasurer had no authority to call in. For this reason no attempt was made to negotiate any part of the loan until September 8, 1860, when proposals were invited for $10,000,000. Although the law allowed the rate of interest to be as high as six per cent, the Secretary thought that a sufficient number of bidders ought to be secured at a lower rate. The five per cent stocks of the United States were selling on the market at that time at a premium of three per cent,[4] so the Secretary decided to offer the new stock at five per cent. He had not erred in his judgment,

[1] *Finance Report* (1858), p. 16.
[2] Act of March 3, 1859, 11 *U.S. Stat. at Large*, p. 430.
[3] Act of June 22, 1860, 12 *U.S. Stat. at Large*, p. 79.
[4] *Finance Report* (1860), p. 8.

for the whole amount offered was taken either at par or at a small premium.[1]

In the year 1860 there was a great business and financial uncertainty, owing to the presidential election. The strained relations between the free and slave states were becoming more tense. There were some indications that war might result. Political leaders of the North, however, did not seem to realize the seriousness of the situation. Fourteen days before Congress adjourned in June, 1860, on motion of Chairman Sherman, of the Ways and Means Committee, an item of $1,000,000, which was to provide for the repair and equipment of vessels, was stricken from the naval appropriation bill.[2] Some other Northern Congressmen attacked the bill even more severely than did Mr. Sherman. Mr. Lovejoy, of Illinois, said: "I am tired of appropriating money for the army and the navy when, absolutely, they are of no use whatever."[3]

The political campaign, together with the threatened secession of the Southern States, made impossible any reliable predictions with regard to the business of the country, and for this reason the Secretary of the Treasury could not make any estimates with regard to the national income which he would consider trustworthy. Secretary Cobb said: "All the elements of prosperity are in existence. Abundant crops, with remunerative prices, money seeking safe investments, and, indeed, everything to indicate more than the usual increase in trade and business. The causes which have so suddenly arrested this tide of prosperity must be looked for outside of the financial and commercial operations of the country. They are of a political character."[4]

[1] Stock to the amount of $464,000 was taken at par and on the remainder the premiums varied from one hundredth to one and forty-five hundredths per cent. *Finance Report* (1860), pp. 481–83.

[2] *Congressional Globe*, 1st Sess., 36th Cong., 1859–60, p. 2849, col. 1.

[3] *Ibid.*, p. 2848, col. 3.

[4] *Finance Report* (1860), p. 7.

Of the effects of this campaign "Harper's Weekly" says: "Within the past fortnight a panic has prevailed in Wall Street, and stocks of all descriptions have declined from ten to fifteen per cent. Such an event, occurring simultaneously with the most bountiful crops and the most remarkable development of material wealth this country has ever known, has naturally puzzled the public, and given rise to much surprise and conjecture."[1] Some persons thought that the panic was fictitious — that it had been worked up by the opponents of Mr. Lincoln as a means to defeat him; others, however, said that it was a real panic due to the fears aroused by the ferment in the Southern States.

The political forces which were thus producing uncertainty in business, soon began to affect the national revenues also. When the Secretary made his annual report in December, 1860, he said that the receipts from customs duties were already falling below what would ordinarily be expected. Moreover, the crisis had come before the accepted bidders for the loan of September 8 had made their payments into the Treasury.[2] Some of the bidders paid their amounts promptly, while there were others who were willing to meet their obligations if the department required it, but could do so only at a considerable sacrifice. To relieve these, the time of payment was extended, but even then some were unable to keep their contracts. In all the Treasury received only $7,022,000 of the $10,000,000 for which it had negotiated.[3] There were yet $11,000,000 of stocks authorized that had not been disposed of, but the recent experience did not encourage the Secretary to offer these stocks for sale.

Capitalists seemed unwilling to invest in Government stocks at par, so that it seemed almost certain that no more could be negotiated at terms acceptable to the Government. Therefore, the Secretary recommended that the law author-

[1] *Harper's Weekly*, vol. IV, p. 706, col. 1 (November 10, 1860).
[2] *Supra*, p. 4.
[3] *Finance Report* (1861), p. 37.

izing the issue of the additional $11,000,000 be repealed and that reliance be placed upon an issue of treasury notes. As there was danger that the people might not have confidence in these, he proposed that the public lands be unconditionally pledged for their ultimate redemption.[1] Following this recommendation, Congress passed an act for the issue at par of $10,000,000 in treasury notes, to be redeemed at the expiration of one year, after which date, if unredeemed, they were to bear interest at six per cent until paid.[2]

Before this law went into effect, Secretary Cobb resigned, and in January, 1861, was succeeded by John A. Dix. The appointment of General Dix, with some other changes in the Cabinet, seemed in a measure to restore confidence in the credit of the Government.[3] The rates of interest required to attract bidders for government loans were, however, still very high.

After advertisement, the treasury notes were to be issued at such rates of interest as might be offered by the lowest responsible bidders. On December 18, the new Secretary invited proposals for the exchange of $5,000,000 for treasury notes. He did not wish the rate to go above twelve per cent, but only $1,831,000 were offered at this rate or less. There were other offers received for $465,000, but the rates ranged from fifteen to thirty-six per cent. At least $5,000,000 were required to sustain the public credit by the payment of interest on government stocks and the redemption of notes coming due. Realizing the importance to the nation that this amount should be raised, the assistant treasurer at New York tried to persuade the bankers and capitalists to take the balance at twelve per cent, and was so successful that the entire amount was taken through the Bank of Commerce of that city.[4]

[1] *Finance Report* (1860), p. 9.
[2] Act of December 17, 1860, 12 *U.S. Stat. at Large*, p. 121.
[3] Dewey, p. 272.
[4] *House Misc. Doc.* No. 20, 2d Sess., 36th Cong., 1860–61, p. 3.

The Secretary of the Treasury was of the opinion that ordinary expenses ought to be met by the ordinary income. In his annual report in 1859 he said that "The idea of increasing the public debt to meet the ordinary expenses of the government should not be entertained for a moment."[1] Nevertheless, the public debt had been continually increasing, since 1857,[2] and there had been no extraordinary expenses. In reply to an inquiry from the Chairman of the House Ways and Means Committee of January 14, 1861, the Secretary estimated that the expenditures would so far exceed the resources for the fiscal year, ending June 30, 1861, that over $21,000,000 must be provided for, in excess of treasury notes already voted. This sum would be necessary to pay the accumulated and current debts with those which would accrue before the close of the year.[3] As the credit of the Government had fallen very low, the Secretary recommended, if it seemed advisable to Congress, that the surplus revenue of the Federal Government, amounting to $28,000,000, deposited with twenty-six of the States,[4] be pledged for the repayment of any money

[1] *Finance Report* (1859), p. 9.

[2] The public debt, balance in the Treasury, and the debt minus the balance in the Treasury at the close of each fiscal year from 1857 to 1861 were: —

	Debt	Bal. in Treas.	Debt less Bal.
July 1, 1857	$29,060,386.90	$17,710,114.27	$11,350,272.63 [a]
1, 1858	44,910,777.66	6,398,316.10	38,512,461.56 [b]
1, 1859	58,754,699.33	4,339,275.54	54,415,423.79 [c]
1, 1860	64,769,703.08	3,629,206.71	61,140,496.37 [d]
1, 1861	90,867,828.68	2,257,065.80	88,610,762.88 [e]

[a] *Finance Report* (1857), pp. 4 and 41.
[b] *Ibid.* (1858), pp. 4 and 34.
[c] *Ibid.* (1859), pp. 4 and 21.
[d] *Ibid.* (1860), pp. 4 and 22.
[e] *Ibid.* (1861), pp. 32 and 298.

[3] *House Misc. Doc. No. 20*, 2d Sess., 36th Cong., 1860–61, pp. 1–7.

[4] On June 23, 1836, an act was signed providing that all money in excess of $5,000,000 in the United States Treasury on January 1, 1837, should be deposited with the several States in proportion to their repre-

which the Government might find it necessary to borrow. He suggested this with the hope that it would put the loans on a basis that would be more acceptable to capitalists;[1] but the proposal did not meet with the approval of Congress. On February 8 an act was passed authorizing the President to borrow $25,000,000 before July 1, by the issue of stocks which were to bear interest not to exceed six per cent.[2] Secretary Dix disposed of the first $8,006,000 at rates varying from $90.15 to $96.10, from which he realized the sum of $7,243,500.35.[3] Before Congress adjourned, the duties on imports were revised and the President was given authority to borrow an additional $10,000,000 at the same rates as the February loan.[4]

This was the last financial measure passed during Mr. Buchanan's administration. Professor A. S. Bolles describes it as "the miserable ending of the chapter on finances while they were managed by the South under the *quasi* administration of James Buchanan. During the few months that Gen. Dix managed them, he displayed wisdom and vigor; but the evils previously wrought through a long course of maladministration could not be easily nor quickly cured."[5] Mr. J. W. Schuckers writes of this same period: "The critical condition of public affairs during the closing months of Mr. Buchanan's administration, and the general apprehension that they must early culminate in civil war, had materially damaged the public credit some time before

sentation in Congress, and to be returned when the Secretary of the Treasury might call for it to meet appropriations made by law. (*5 U.S. Stat. at Large*, p. 55.) By Act of October 2, 1837, the deposits could not be withdrawn otherwise than by direction of Congress. (*5 U.S. Stat. at Large*, p. 201.) Deposits of this surplus revenue to the amount of $28,101,644.97 were made with the States (*Finance Report, 1838*, p. 177), and Congress has never ordered their withdrawal.

[1] *House Misc. Doc. No. 20*, 2d Sess., 36th Cong., 1860–61, p. 6.

[2] 12 *U.S. Stat. at Large*, p. 129.

[3] *Senate Ex. and Misc. Doc. No. 2*, 1st Sess., 37th Cong., 1861, p. 11.

[4] Act of March 2, 1861, 12 *U.S. Stat. at Large*, p. 178.

[5] *Financial History of the United States, 1789–1860*, p. 605.

Mr. Lincoln's inauguration. The comparatively small necessities of the Government during the last session of the Thirty-sixth Congress were met with serious difficulty, and at rates and under circumstances which showed how extensive the loss of confidence was."[1] Of the political condition the same author remarks: "Congress during the same period had been stormy and factious. The Southern Senators and Representatives effectually controlled the expressions and actions of the venerable and timid President."[2]

With the inauguration of Abraham Lincoln, Salmon P. Chase was made Secretary of the Treasury. The public in general had a very high opinion of Mr. Chase's personal reputation and for this reason it had been urged upon the President to appoint him. It was thought that in the impending struggle the side would win whose resources held out the longest, and that a "minister of finance was required who would command, in the highest degree, the public confidence"; and many of the leading men of the North thought that Mr. Chase could command this confidence as could no other man.[3]

On March 22, Mr. Chase advertised a loan of $8,000,000, at six per cent interest.[4] Bids were to be received until twelve o'clock noon on April 2. When the bids were opened there were $27,182,000 offered, varying from eighty-five per cent to par.[5] The President had been given authority to issue treasury notes if proposals for loans were not satisfactory,[6] and accordingly he refused all proposals for loans at rates less than ninety-four per cent. The wisdom of this

[1] *Life of S. P. Chase*, p. 209.

[2] *Ibid.*, p. 211.

[3] Cf. Letter of F. A. Conkling to E. G. Spaulding, who, with Horace Greeley, visited Mr. Lincoln to urge upon him the appointment of Mr. Chase. The date of the letter was October 17, 1875. Spaulding, *History of the Legal Tender Paper Money Issued During the Great Rebellion, Appendix*, p. 84.

[4] New York *Times*, March 23, 1861, p. 1, col. 1.

[5] *Senate Ex. and Misc. Doc. No. 2*, 1st Sess., 37th Cong., 1861, pp. 32–49.

[6] Act of March 2, 1861, 12 *U.S. Stat. at Large*, p. 179.

action was shown by the fact that numerous rejected bidders offered by telegram to take loans at higher figures,[1] and were greatly disappointed when their offers were not accepted. They were properly rebuked for trying to combine and to speculate in government securities. Mr. Chase said that he expected "capitalists to bid for the Government loan as an investment, and not toy with it as fancy stock." [2] Of the $8,000,000 that the Secretary desired to raise, $3,099,000 was secured by loans and the remainder by the issue of treasury notes.[3]

After hostilities had begun, with the firing on Fort Sumter on April 12, the capitalists were less ready to lend to the Government. On May 11, 1861, Secretary Chase advertised a loan of $8,994,000, at six per cent interest,[4] but none of the bids for it was higher than ninety-three per cent, and the lowest went down to sixty per cent.[5] All the bids accepted were above eighty-five per cent and covered $7,310,000, The remainder of the $8,994,000 was raised by the issue of treasury notes.[6] Proposals were also invited for a loan of $13,978,000, which was the balance of that authorized by the Act of June, 1860. There were only three bids received and they aggregated but $12,000. When these were made the terms were misunderstood, and so permission was given to withdraw the offers. Then the Secretary, under authority of the Act of March 2, 1861, again issued treasury notes, and these new issues, down to July 4, 1861, aggregated $2,584,550.[7]

Following the surrender of Fort Sumter, on the day [8]

[1] New York *Times*, April 4, 1861, p. 1, col. 1.

[2] *Ibid.*, p. 1, col. 1.

[3] *Senate Ex. and Misc. Doc. No. 2*, 1st Sess., 37th Cong., 1861, p. 49.

[4] Under authority of Act of February 8, 1861, 12 *U.S. Stat. at Large*, p. 129.

[5] *Senate Ex. and Misc. Doc. No. 2*, 1st Sess., 37th Cong., 1861, pp. 54–58.

[6] $7,310,000 were disposed of in bonds and $1,684,000 in treasury notes, realizing for the $8,994,000 offered, $7,922,553.45. *Ibid.*, p. 11.

[7] *Ibid.*, p. 12.

[8] April 15, 1861.

that the President issued a call for 75,000 militia, he also summoned an extra session of Congress to meet on July 4. When Congress convened, the seceded States were not represented.[1] In accordance with the law requiring a report from the Secretary of the Treasury at the commencement of every session of Congress,[2] Secretary Chase sent his report to the House of Representatives on July 5. In this report he treated the subject of the finances under three heads: — first, the balance arising from the receipts and expenditure for the fiscal year ending June 30, 1861; second, the demands to be made upon the Treasury by the existing and required appropriations; and third, the best ways of providing money to meet these demands.[3]

Under the first head he set forth that the public debt on July 1, 1861, was $90,867,828.68, with a balance in the Treasury of $2,355,635.21.[4] Under the second head, he estimated the amount of appropriations needed to meet existing and required appropriations for the year 1862 would be $318,519,581.87.[5] There was no intention on the part of the Secretary to try to raise this amount by taxation, and of course the deficiency was to be met by loans. The problem that faced the Secretary and Congress was the proper adjustment of the loans to the revenues, so that the total amount might be raised "with the least possible inconvenience, and the greatest possible incidental benefit to the people." In order that loans might be secured at reasonable rates it was necessary to maintain the public credit, and this could be done only by economical administration upon sound principles of financiering. Mr. Chase thought this required that sufficient revenues be raised to meet the ordinary expenses of the Government, the interest on any

[1] With the exception that Virginia had two members of the House of Representatives present. *Cong. Globe*, 1st Sess., 37th Cong., 1861, pp. 1–2.

[2] Act of September 2, 1789, 1 *U.S. Stat. at Large*, p. 66.

[3] *Senate Ex. and Misc. Doc. No. 2*, 1st Sess., 37th Cong., 1861, p. 1.

[4] *Ibid.*, pp. 4 and 18.

[5] *Ibid.*, p. 5.

public debt that it might be necessary to contract, and the creation of a sinking fund for the redemption of the principal of the debt. The estimates made by the Secretary for the fiscal year ending June 30, 1862, showed that not less than $80,000,000 would need to be raised by taxation.[1]

Under the Federal Constitution there were three methods by which this sum might be raised, — by import duties, by direct taxes, and by internal duties. A small sum might also be expected from miscellaneous sources, such as the sale of public lands. From the returns from import duties for the past year it was quite evident that, at the existing rates, that source would be entirely inadequate.[2] Mr. Chase thought that by making certain changes in the tariff schedule, such as including in the taxed list certain articles, like tea and coffee that were exempt from duty, and increasing the rates on other articles, such as sugar, $57,000,000 should be realized. He estimated that $3,000,000 more could be counted on from the sale of public lands, making a total of $60,000,000. This would leave a balance of $20,000,000 for which provision would need to be made. For the raising of this balance, Mr. Chase seemed uncertain what plan was the best to advise. Therefore, he pointed out the possibilities of a direct tax and also of internal duties and left it "to the superior wisdom of Congress"[3] to determine whether one or the other or both should be adopted.

From the foregoing it is seen that the financial policy during the year and a half preceding the convening of the

[1]

For ordinary expenses for the year 1861	$65,887,849.34
For interest on debt to be incurred during the year	9,000,000.00
For sinking fund to discharge principal	5,000,000.00
Total	$79,887,849.34

(*Senate Ex. and Misc. Doc. No. 2*, 1st Sess., 37th Cong., 1861, p. 6.)

[2] The returns from the tariff had fallen off from $16,119,831.22 for the first quarter of the fiscal year ending June 30, 1861, to $5,527,246.33 (estimated in part) for the last quarter. *Ibid.*, p. 2.

[3] *Senate Ex. and Misc. Doc. No. 2*, 1st Sess., 37th Cong., 1861, p. 9.

special session of Congress in July, 1861, was very vacillating. Although war was threatening all during the period, before the national election in 1860 there was great uncertainty as to who would be the next President, and in many parts of the country it was considered that war or peace depended largely upon the outcome of the political campaign. Even after the election of Mr. Lincoln, many men hoped and thought that it would yet be possible to avoid a resort to arms.

Very naturally, however, the Senators and Representatives from the Southern States did not favor the adoption of any financial policy which would strengthen the position of the Northern States. Apparently President Buchanan and his advisers were not highly desirous of leaving the finances in the best condition for the incoming administration. They seemed, rather, to think only of how they might secure enough money to meet the necessary expenses and to be glad to leave the larger problem for the next administration to settle.

After the inauguration in March, 1861, there was no opportunity for any action by Congress before the special session in July. Mr. Chase, although he showed considerable ability in the organization of his office and in securing loans, was not especially adapted or trained for such work. He did not seem to realize that a large financial policy was needed. Nor did the majority of his associates and of the members of Congress realize it. They did not appreciate the enormous problem which was before them of supplying funds for a long civil war. Their plans at first were too much of a temporary and limited nature. As a result in subsequent legislation there was no precedent of any value to follow. Moreover, either from lack of appreciation of the difficulties before them or from lack of courage to grapple at once with the larger problems, there was uncertainty and therefore hesitancy in the plans which the Secretary proposed and which Congress adopted.

CHAPTER II

DIRECT TAX

In the framing of our National Constitution, among the powers given to the Federal Government was that of levying direct taxes, providing they were apportioned among the several States "according to their respective numbers."[1] This source of revenue had been resorted to twice before the outbreak of the Civil War. In 1798 a direct tax of $2,000,000 was levied [2] to meet a deficiency in the Treasury and to pay debts due to the United States Bank;[3] and again, during the War of 1812, direct taxes of $3,000,000, $6,000,000, and again $3,000,000 were levied.[4] It had been only in cases of emergency that resort had been made either to direct taxes or internal duties, as the people seemed to favor the indirect tax on imports. Therefore, Secretary of the Treasury Chase, in 1861, did not propose any departure from the policy which seemed to have the support of the people and of precedent.

Just at the time of the Secretary's report,[5] industry seemed to be very much demoralized, but he was of the opinion that the existing disorder of business was only temporary, and that with the revival of trade and industry the revenues would rapidly increase. He said: "It is hardly to be doubted, moreover, that the great body of the citizens . . . will, ere long, become satisfied that order and peace . . . are preferable to disorder and conflict. . . . It is not unreason-

[1] Article I, Section 2, Paragraph 3.

[2] Act of July 14, 1798, 1 *U.S. Stat. at Large*, p. 597.

[3] Bolles, *Financial History of the United States* (1789–1860), p. 197.

[4] Act of August 2, 1813, 3 *U.S. Stat. at Large*, p. 53; Act of January 9, 1815, *ibid.*, p. 164; Act of March 5, 1816, *ibid.*, p. 255.

[5] June and July, 1861.

able to expect that with restored Union will come . . . renewed prosperity." [1] The opinion seemed to be held pretty generally that the war would be of short duration.[2] General Winfield Scott is said to have expressed the opinion that the war would be concluded within a year, unless some complications should arise with foreign powers.[3] Under the discussion of "Monetary Affairs," the New York "Times," said, "The belief is almost universal, among our business men, that in a short time the whole thirty-four States will be, in practical truth, as they are by the letter and spirit of the Constitution, One People."[4] On July 19, 1861, the New York "Tribune," in referring to the advances of the Union army from all sides, toward the focus of the secession in Virginia, said, "It seems to be the universal and joyful conviction that this is 'the beginning of the end.'" [5] There were, however, some men who were not so optimistic. Mr. Thaddeus Stevens, of Pennsylvania, in a speech in the House of Representatives, said he looked upon the war as a protracted and bloody one, and one that would cost many thousand valuable lives and many millions of money.[6] Yet the prevailing opinion seemed to be that such extraordinary taxes as might be provided would be necessary for only a comparatively short time.

When it became evident in July, 1861, that the ordinary resources of the Government were not going to be sufficient to maintain its credit, the Secretary thought it advisable to suggest to Congress to levy a direct tax. It is difficult to tell upon just what kinds of property he thought this tax should be placed. The direct tax of 1798 had been assessed upon "dwelling-houses, lands, and slaves" [7] and that of 1813 upon "the value of all lands, lots of ground with their

[1] *Senate Ex. and Misc. Doc. No. 2*, 1st Sess., 37th Cong., 1861, pp. 7–8.
[2] Bolles (1861–85), p. 14.
[3] New York *Times*, May 31, 1861, p. 4, col. 3.
[4] *Ibid.*, July 18, 1861, p. 3, col. 2.
[5] Page 4, col. 2.
[6] *Cong. Globe*, 1st Sess., 37th Cong., 1861, p. 251, col. 1.
[7] Act of July 14, 1798, 1 *U.S. Stat. at Large*, p. 598.

improvements, dwelling-houses, and slaves." [1] Mr. Chase made no mention of slaves, yet he did speak of taxing personal property, and in the slaveholding States a large part of the personal property consisted of slaves. However, judging from the rates which he suggested upon the property held in the Union States and also from his statement that it was very doubtful if it would be possible to collect any taxes in the seceded States, at least, temporarily,[2] he probably did not intend that slaves should be included in the assessment.

He said that according to the census figures of 1860, the value of all property, both real and personal, in the United States was $16,102,924,116,[3] of which it was estimated that $11,272,053,881 was real property and $4,830,880,235 was personal. In commenting upon this, the London "Economist" said, these "are very large figures, on which any Chancellor of the Exchequer would be very glad to lay his hand."[4] Of the total amount $10,900,758,009 represented the value of the property in the Northern States, leaving $5,202,166,107 as the value of that part of the property of the United States held by the States which were in a state of insurrection. A rate of one eighth of one per cent on the total property of the country would produce $20,128,667. The real estate alone in the Northern States was valued at $7,630,530,605, and a rate of three tenths of one per cent on this would produce $22,891,590, while a tax of one fifth of one per cent on all the property, both real and personal, of the Northern States would yield $21,800,516.[5] These

[1] Act of July 22, 1813, 3 *U.S. Stat. at Large*, p. 26.

[2] *Senate Ex. and Misc. Doc. No. 2*, 1st Sess., 37th Cong., 1861, pp. 9–10.

[3] According to the census tables for 1860, as published in 1866, the true value of the real and personal property of the United States was $16,159,616,068. *Census of 1860, Mortality and Miscellaneous Statistics*, p. 295.

[4] Vol. 19, p. 815 (July 27,1861).

[5] There seems to be a slight error in the figures of the Secretary, for

rates were quite low, and yet either sum would be in excess of the amount required, which, added to the customs duties, would sustain the credit of the Government.[1]

This report of Secretary Chase was not the first suggestion for a direct tax. Some of the seceded States had long held to the theory of the superiority of a system of direct taxation for raising the revenues needed for the support of the Government, over the more popular method of obtaining them through duties on imports. Indeed, this reason was set forth by the leaders of South Carolina as one of the prominent motives for secession, which was inaugurated by her convention.[2] In the Northern States it was also being discussed. As early as June 19, 1861, the New York "Times" published a letter, copied from the Boston "Journal," proposing that a direct tax should be levied and suggesting much higher rates than the Secretary had recommended in his report.[3] In commenting upon the letter the "Times" suggested that $80,000,000 should be collected by a tax of five mills per dollar of property value, and that, as it would be difficult of collection in the Southern States, the soldiers under martial law should levy upon the Southern cotton to pay the tax.[4]

One of the objections raised against the tax was that it would be unconstitutional. It was said that, because of the disturbed conditions of the country, the apportionment among the Southern States could not be made as required by the Constitution. However, the Secretary contended that, in recommending the tax, he had gone upon the

one eighth of one per cent of the value of all the property in the United States would be $20,128,655; three tenths of one per cent of the value of the real estate in the Northern States would be $22, 891,592; and one fifth of one per cent of the value of all property in the Northern States would be $21,801,516.

[1] *Senate Ex. and Misc. Doc. No. 2*, 1st Sess., 37th Cong., 1861, p. 9.

[2] New York *Times*, July 13, 1861, p. 4, col. 3.

[3] Page 5, col. 3.

[4] June 20, 1861, p. 4, col. 5.

theory that if Congress apportioned it properly it would be held constitutional, and the mere fact that it was difficult or temporarily impossible to collect it would not make it invalid.[1] If this objection was sufficient to invalidate the law, it would apply also to excise taxes and customs duties, for by the Constitution they must be uniform throughout the country, and while the secession lasted it would be impossible to make them uniform in collection.

When the special session of Congress had completed its organization, one of the first things it did in financial matters was to authorize the Secretary of the Treasury to borrow $250,000,000 on the credit of the Government, either by the issue of bonds or of treasury notes.[2] On July 16, the first bill was introduced looking to an increase in revenues, but it provided only for changes in tariff duties and not for any form of internal taxes. Following the suggestion of Secretary Chase,[3] the Committee on Ways and Means in framing the bill had put a duty on tea and coffee and increased the rate on sugar. These taxes met with considerable objection in the lower House, because, it was said, they would fall to a large extent upon the poorer classes. When it seemed certain that these rates would be cut down, the committee announced that they would bring in a bill for direct taxation.[4] Accordingly, on July 23,[5] a separate bill was introduced providing for a direct tax of $30,000,000 [6] apportioned alike upon the Union and seceded States, about $20,000,000 falling upon the former.

Internal taxes had never been looked upon with favor by the American people, and in the debates in Congress on the subject attempts were made to show that a direct tax was the least desirable of any internal tax. Mr. Colfax, of

[1] *Senate Ex. and Misc. Doc. No. 2*, 1st Sess., 37th Cong., 1861, p. 10.
[2] Act of July 17, 1861, 12 *U.S. Stat. at Large*, p. 259.
[3] *Supra*, p. 13.
[4] *Cong. Globe*, 1st Sess., 37th Cong., 1861, p. 176, col. 3.
[5] *Ibid.*, p. 229, col. 3.
[6] *Ibid.*, p. 248, col. 2.

Indiana, said, "The most odious tax of all we can levy is going to be the tax upon the land of the country."[1] Senator Simmons, of Rhode Island, said, "Let us tax property, in the last resort, when we have to reach the poor as well as the rich."[2] Mr. Wright, of Pennsylvania, said of the direct tax levied during the War of 1812, "I know that a more odious measure was never adopted";[3] and he appealed to the Committee on Ways and Means "not at this time to press upon the country this question of direct taxation, which, of all others, should be avoided if it can be."[4] Mr. Wickliffe, of Kentucky, said, "The system is an odious and oppressive one, and less profitable than any system of taxation that you can adopt."[5] Back of these objections there was doubtless the fear that their constituents would notice a direct more than an indirect tax, and, if Congress passed a direct tax law, the chance of reëlection of some of its members would be lessened. Outside of Congress there was some objection to the tax. An editorial in the New York "Daily Tribune" said, "We do not strenuously object to direct taxes, though we prefer to raise money by Excise rather than by an indiscriminate Income or Property Tax."[6]

On the other hand the tax seemed to meet with considerable public favor in certain quarters. The New York "Times" stated that the tax would be a benefit rather than a detriment to the people. It considered that the chief cause of public corruption, of which there was much at that time, was the great prosperity of the people and the cheapness of government. In the twenty years past, hardly a dollar of the governmental expenses had come directly from the people. But with a direct tax the people would feel when they paid, and for that reason would

[1] *Cong. Globe*, 1st Sess., 37th Cong., 1861, p. 248, col. 1.
[2] *Ibid.*, p. 254, col. 2.
[3] *Ibid.*, p. 175, col. 3.
[4] *Ibid.*, p. 251, col. 2.
[5] *Ibid.*, p. 270, col. 3.
[6] July 17, 1861, p. 4, col. 2.

watch the public officials to see that they were not robbing the Government. "The correction of the standard of morality in this regard will be worth many millions of dollars yearly to the public Treasury, and more than can be expressed in dollars to the general cause of honesty and virtue." [1] In another editorial in the same paper the direct tax was favored because it would add to the immediate resources of the Government, and also greatly facilitate other financial operations. As the people had already responded cheerfully to every call for men and money, so now they would submit cheerfully to such a tax.[2] Many letters and memorials were sent to Secretary Chase, to the Committee on Ways and Means and other members of Congress, showing that there was a strong public opinion in favor of the tax.[3]

Of the numerous amendments, offered to the direct tax bill while it was up for debate in the House of Representatives, was one by Mr. Roscoe Conkling which seemed to meet with considerable favor, though it never came to a vote. The substance of it was that requisitions be made upon the governors of the several States for the quota of taxes due from the States. As there were some excise taxes in the bill, the requisitions were to cover these also. In this way it was thought the trouble and cost of collection would be saved to the Federal Government.[4] Mr. Conkling said

[1] August 9, 1861, p. 4, col. 6.

[2] June 20, 1861, p. 4, col. 5.

[3] These letters and memorials have not been published and are now in the office of the File Clerk of the House of Representatives in Washington. Because of the unsystematic way in which the papers are kept, and also because of the impossibility of determining the character of the men who wrote the letters in many cases, it is difficult to tell just what value can be attached to them. The following taken from a letter dated December 3, 1861, of R. W. Taylor, auditor for Ohio, to Secretary Chase, is typical: Direct tax "can be collected in most, probably all, the loyal States, through their regularly organized systems of taxation, and would attract no other notice than that naturally given to an increased taxation." From *Misc. Papers of Ways and Means Committee*, 2d Sess., 37th Cong., 1861–62.

[4] *Cong. Globe*, 1st Sess., 37th Cong., 1861, p. 247, col. 1.

that perhaps the most "obnoxious" feature of the bill was that which created an army of officers to collect the tax. However, such an amendment was impossible for two reasons. First, while the amount of direct taxes due from each State could and would be determined by Congress, it was impossible to tell how much money from indirect taxes in the form of excises should come from each State, for the Constitution did not require the latter to be apportioned according to population, but only that they shall be uniform throughout the United States.[1] Second, the Constitution gave Congress no authority for making requisitions upon the governors of the States.

During the debate in the House one other amendment of importance was offered. It was a proposal to strike out altogether that portion of the bill which provided for a direct tax.[2] Two arguments were advanced in support of this amendment. Some Representatives held that the other sources of revenue which had been and were being provided for were all that there was any need of providing during that session of Congress. Others thought that as the bill, if it became a law, would not go into effect until January 1, 1862, and thus not until after Congress had convened in regular session in December, and also since it provided that no officers were to be appointed until after that time, it would be time enough then to vote on such a bill. To this Mr. Stevens, Chairman of the Ways and Means Committee, replied that such action would be unwise in the extreme. The public debt at that time[3] amounted to $100,000,000, and Congress, just the week before, had authorized additional loans of $250,000,000.[4] These could never be negotiated without some steps first being taken to show where the money was to come from to pay the interest when it became due, and to provide a sinking fund

[1] Article I, Section 8.
[2] *Cong. Globe*, 1st Sess., 37th Cong., 1861, p. 249, col. 2.
[3] July, 1861.
[4] *Supra*, p. 19.

to meet the principal.[1] The failure of Congress to pass this or a similar measure at that session would mean the depriving of the Government, for six months, of the power to provide arms and ammunition for prosecuting the war. Mr. Stevens was doubtless correct in his opinion, for money-lenders were willing to loan their money only if they saw a willingness manifested on the part of the people to tax themselves to repay the loan.

On July 29, the bill was passed by the House and sent to the Senate.[2] On July 18, a bill providing for increase of duties on imports was passed by the House,[3] and on July 30, it was passed with amendments by the Senate.[4] A conference committee was appointed to try to reach an agreement on the tariff bill, and in its report consolidated with the tariff bill the direct tax bill of the House,[5] which had been read twice in the Senate and referred to the Committee on Finance. The Senate passed the consolidated measure by a vote of 34 to 8, and the House passed it by a vote of 89 to 39.[6]

The act, as signed by the President, provided for an annual direct tax of $20,000,000 instead of $30,000,000, the amount proposed in the original bill. This amount was apportioned among the several States and Territories so that $14,844,018$\frac{2}{3}$ were to be collected from the Union States and $5,155,981$\frac{1}{3}$ from the States in secession. The tax was to be "laid on the value of all lands and lots of ground, with their improvements and dwelling-houses, . . . at the rate each of them is worth in money on the first day of April, eighteen hundred and sixty-two." [7] An exemption up to the value of $500 was allowed to an individual owning property and actually residing on it.

[1] *Cong. Globe*, 1st Sess., 37th Cong., 1861, p. 250, col. 3.
[2] *Ibid.*, p. 331, col. 1.
[3] *Ibid.*, p. 205, col. 2.
[4] *Ibid.*, p. 336, col. 1.
[5] *Ibid.*, p. 415, col. 3.
[6] *Ibid.*, p. 400, col. 2, and p. 416, col. 1.
[7] Act of August 5, 1861, 12 *U.S. Stat. at Large*, p. 297.

While the bill was under discussion in the House, an amendment was offered to insert the words "and slaves" after the word "dwelling-houses," but it met with such opposition,[1] that it was not included in the bill as finally passed. The opposition was based principally on the fact that if slaves were included they would be taxed according to valuation, just as horses, and most members of Congress thought that the general Government ought not to recognize slaves as property.

As there were no internal tax laws in force at this time and had not been for forty-four years,[2] the necessary machinery needed to be provided for the collection of the taxes. Accordingly the President was authorized,[3] upon the nomination of the Secretary of the Treasury, to appoint an officer in the Treasury Department, to be called the Commissioner of Taxes,[4] who, under the supervision of the Secretary, was to superintend the collection of the direct and the income taxes, which also were levied by this act. The statute authorized the President to divide the States and Territories of the United States and the District of Columbia into convenient collection districts, and, by and with the consent of the Senate, to appoint an assessor and collector for each such district.

Recognizing that for the time being some of the States were in secession, the act provided that when for such a reason it was impossible to collect the tax, the President should proceed to execute the provisions of the act as soon as the authority of the United States therein was reëstablished.[5]

To avoid one of the criticisms of the act, — that it would send federal tax assessors and collectors into all parts of the

[1] *Cong. Globe*, 1st Sess., 37th Cong., 1861, p. 269 *et seq.*

[2] The laws levying internal taxes were repealed by Act of December 23, 1817, 3 *U.S. Stat. at Large*, p. 401.

[3] Act of August 5, 1861, 12 *U.S. Stat. at Large*, p. 312.

[4] No appointment was ever made. *Finance Report* (1865), p. 90.

[5] Act of August 5, 1861, 12 *U.S. Stat. at Large*, p. 311.

country,[1] — and also to save to the Federal Government the trouble and expense of collecting the tax, permission was given to the State Governments to assume and pay into the United States Treasury their respective quotas of the direct tax. Then the State could collect it in any way that it desired. This provision had been included in the laws of 1813, 1815, and 1816.[2] Inducement was also given the States to assume the tax. By giving notice to the Secretary of the Treasury before the second Tuesday in February, 1862, and in each succeeding year, to the effect that it intended to assume the payment of the tax, a State could secure a reduction of fifteen per cent on all sums actually paid in by the last day of June, and ten per cent on all sums paid in by the last day of September. Furthermore, any State holding a determined claim against the United States could present that in partial or entire payment of its quota of taxes.[3] Further details of the statute need not be considered in this study.

When Congress met in regular session in December, 1861, the Secretary reported that nothing had been done in his office toward getting the machinery in order for the collection of the direct taxes. Already various States, through their governors, had indicated their intention of assuming, collecting, and paying the taxes, and those which had not had yet over two months in which to declare their intentions. Besides this, no valuations were to be made until the 1st of April, 1862, so no officers would be needed for that purpose for four months.[4] In this same report the Secretary advised an increase in the direct taxes, so that $20,000,000 would be raised from the Union States alone.[5]

During this session of Congress there was further legislation with regard to the direct tax. As the war progressed,

[1] *Supra*, p. 22.
[2] 3 *U.S. Stat. at Large*, pp. 71, 179, and 256.
[3] 12 *U.S. Stat. at Large*, pp. 311–12.
[4] *Finance Report* (1861), p. 14.
[5] *Ibid.* (1861), p. 15.

some of the Union States had enrolled, equipped, paid, and transported troops for the service, and on May 13, 1862, an act was approved which allowed any State which had incurred such expenses to apply them on its quota of direct taxes, providing the claim was filed with the proper official before July 30, 1862.[1]

As the machinery provided for collecting the taxes in case they were not assumed by the States was not deemed fitted for the purpose in the seceded States,[2] Congress passed another law to remedy this defect. It provided that the President on or before the 1st day of July, 1862, should issue a proclamation declaring in what States or parts of States the insurrection existed. It authorized him, with the advice and consent of the Senate, to appoint three tax commissioners for each such State. Then, whenever the commanding general of the forces of the United States had established military authority in any district, the commissioners were to enter upon their duties. Each lot or parcel of land in the State, not subject to exemption, was to be charged with so much of the tax laid upon the State as the value of the lot or parcel of ground bore to the value of all taxable real estate within the State. As a basis of determining valuations, the last State assessment and valuation made, previous to January 1, 1861, was to be used if such records were not concealed, destroyed, or lost; but if they could not be found, the commissioners were to value and to assess the property according to their own judgment. There was to be added to the portion of the tax falling upon each piece of property fifty per cent of the amount of the tax as a penalty for not paying the tax as provided by the Act of August 5, 1861. After the commissioners had fixed the amount of tax due from each property-owner, sixty days were allowed for paying the tax. If not paid within this time, the land was to be advertised and sold to the highest

[1] 12 *U.S. Stat. at Large*, p. 384.

[2] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 2017, col. 3.

bidder, providing his bid covered the tax, penalty, costs, and ten per cent interest from the time the tax became due; otherwise, the commissioners were to bid it in for the Government. Land sold for taxes might be redeemed by the owner by taking oath to support the Constitution and paying the taxes, penalty, costs, and interest thereon at fifteen per cent from the date of the President's proclamation.

Lands bid in for the United States were to be leased or resold. For the resale of these lands the commissioners were to divide them into tracts of not more than three hundred and twenty acres, and after sixty days' notice sell them at public sale. Any loyal citizen, or any person who had declared his intention to become such, or who had served for three months in the army or navy of the United States, might become a purchaser. Any person who had been in the service of the United States might pay one fourth of the purchase money and have three years to pay the remainder. Any citizen, or any one having declared his intentions of becoming a citizen, residing in the State where the land was to be sold, and not already the owner of other lands, might, under the supervision of the commissioners, preëmpt such unimproved lands as the President should set aside for that purpose. When the insurrection was put down, one half of all the proceeds from the lease or sale of lands within a State was to be paid over to the reconstructed State, one half of which was to be used for reimbursing loyal citizens or for any other purpose that the State might direct, and one half to go to a fund to aid in the colonization or emigration from the State of any free person of African descent to Hayti, Liberia, or any other tropical country.[1]

Before Congress adjourned a general tax bill was passed, but the Secretary's suggestion that the direct taxes should be increased was disregarded. There was a clause in this bill which provided that under the existing law only one tax

[1] Act of June 7, 1862, 12 *U.S. Stat. at Large*, p. 425.

was to be collected, and then the operation of the law was suspended until April 1, 1865.[1]

The next point of interest to be considered is the operation of the law. In the first two years after the direct tax law went into effect, it was not a great success, when measured by the amount of money which it brought into the Federal Treasury. At the close of the fiscal year ending June 30, 1862, $1,795,331.73[2] had been collected. This, perhaps, was as much as could be expected from it, for the Treasury Department was not yet fully organized for collecting the tax, and by the law the valuations for levying it were not to be made until April 1, 1862.[3] The Secretary, however, estimated that the proceeds from this source for the next year ought to be $11,620,717.99,[4] whereas only the sum of $1,485,103.61 appeared on the books as received into the Treasury.[5] Secretary Chase thought that the amount estimated, or nearly that amount, had been received in the form of payments for military supplies and services by the States, for which credit had not yet been given them in the office of the Treasury.[6] These accounts would in time be credited on the books of the Federal Government, but they would not put any money into the Federal Treasury, so that the greatest value of the law was the support it gave to the credit of the Government by showing to money lenders that the people were willing to tax themselves to pay the interest and to provide a sinking fund. There is no method by which we can measure the influence which this had on money-lenders and thus determine the real value of the law, for interest rates were affected also by other taxes and by the prospects of the Union being successful in the war.

Before the second Tuesday of February, 1862, all of the

[1] Act of July 1, 1862, 12 *U.S. Stat. at Large*, p. 489.
[2] *Finance Report* (1862), p. 31.
[3] *Supra*, p. 23.
[4] *Finance Report* (1862), p. 33.
[5] *Ibid.* (1863), p. 3.
[6] *Ibid.* (1863), p. 2.

Union States and Territories except Delaware[1] had indicated their intention to assume and pay their quota of the tax, so assessors and collectors were not appointed. As none of the seceded States assumed the tax and the law of June 7, 1862,[2] had provided special machinery for the collection in those States, the President appointed "a board of tax commissioners" for each.[3] These commissioners entered upon their duties and completed the assessment lists in several of the States.

In issuing regulations from the Treasury Office for the collection of the direct taxes, under authority of the Act of June 7, 1862, the commissioners were instructed to use one of five means for ascertaining the value of property. (1) The last State assessments made before the 1st day of January, 1861, were to be used if they were available. If not, (2) resort was to be made to official documents of the State or district; (3) to the census of the United States for 1860; (4) to any official documents or reports published by the respective States or the United States; (5) to an actual assessment by the commissioners or their agents.[4] A portion of the tax was collected in each of the States except Alabama, but no part of her quota was ever paid.[5] In none of the seceded States was the total quota collected, except in Louisiana,[6] and in most of them the commissioners found it necessary to resort to the sale of some of the lands. In five States — Florida, South Carolina, Virginia, Ten-

[1] *Senate Ex. Doc. No. 24*, 1st Sess., 46th Cong., 1879, p. 13; *Finance Report* (1866), p. 63; *ibid.* (1868), p. 481. In the report of the Commissioner of Internal Revenues for 1870, he states that both Delaware and the Territory of Colorado did not assume the tax. *Finance Report* (1870), p. 14.

[2] *Supra*, p. 26.

[3] The States in which commissioners were appointed were Virginia, North Carolina, South Carolina, Georgia, Florida, Mississippi, Tennessee, Alabama, Arkansas, Louisiana, and Texas. *Finance Report* (1865), p. 90.

[4] Boutwell (1863), p. 133.

[5] *Finance Report* (1870), p. 15.

[6] *Cong. Record*, vol. 20, p. 70, col. 2.

nessee, and Arkansas — lands were bid in for the United States by the commissioners.[1]

Pursuant to the provision of the Acts of June 7, 1862, and of February 6, 1863, for the sale of lands bid in for the United States,[2] President Lincoln, on September 16, 1863, issued instructions to the commissioners of South Carolina telling them how to manage this property of the Government.[3] The instructions of the President, besides authorizing the commissioners to sell lands to citizens or persons who had served in the army or navy of the United States, also gave authority to lease lands and to set aside, in the parish of St. Helena, certain tracts to be divided into plots of twenty acres each, for sale to heads of families of the African race. These plots were to be sold at the nominal price of $1.25 per acre, in order to encourage the Negroes to take an interest in providing for themselves.[4] The commissioners were also instructed to set aside certain other portions of the land bid in by the United States. These tracts, after being surveyed, were to be leased, the proceeds to be applied to the education of the colored and poor white children whose parents or guardians might apply for the privilege.[5] Congress later authorized the selling of these "school farms" at public auction on or before January 1, 1867, at not less than $10 an acre. The proceeds were invested in United States bonds and the interest applied to the support of schools in the parishes of St. Helena and St. Luke.[6]

According to the Act of July 1, 1862,[7] the law of August 5, 1861, was to be in full force and effect again after April 1, 1865. But on June 30, 1864, an act was approved, suspend-

[1] *Finance Report* (1865), p. 90. [2] *Supra*, p. 27.

[3] On July 16, 1866, Congress passed a law confirming the acts of the commissioners. 14 *U.S. Stat. at Large*, pp. 175–76.

[4] *Senate Ex. Doc. No. 24*, 1st Sess., 46th Cong., 1879, pp. 224–27.

[5] *Ibid.*, p. 226.

[6] Act of July 16, 1866, 14 *U.S. Stat. at Large*, p. 175.

[7] *Supra*, p. 28.

ing the operation of the law until there was further legislation by Congress.[1] As the war closed within a year, the tax was never renewed.

The direct tax was not again levied, but a large part of the first levy had not been paid. With the close of the war came the question of the policy which should be pursued in collecting these back taxes. In some parts of the States which had been in secession, it was easier now to collect them than it was during the war. But there was grave doubt as to the advisability of resorting to the extreme of selling lands for the delinquent taxes. The Secretary thought that such a plan should not be followed, because (1) there were many regions in which there had been no federal revenue officers to whom taxes could have been paid; (2) the people (many of them involuntarily) had been heavily taxed by the Confederate Government; and (3) the country had been greatly exhausted by the ravages of war.[2] Accordingly, acting under instructions from the Secretary of the Treasury, on May 17, 1865, the Commissioner of Internal Revenues issued instructions to the direct tax commissioner to suspend all sales of lands for taxes until otherwise ordered.[3]

In his annual report to Congress in December, 1865, the Secretary of the Treasury recommended that the sale of lands under the direct tax law be suspended until the States should have the opportunity of assuming the payment of the tax assessed upon them. He admitted it was for Congress to determine whether any action should be taken for the relief of persons whose property had been sold for taxes. On the other hand, he suggested that liberal legislation would go far to produce harmony between the Government and the people of these States.[4]

During the debate on a tariff bill in the House during this session, Mr. Boutwell offered an amendment to the effect

[1] 13 *U.S. Stat. at Large*, p. 304.
[2] *Finance Report* (1865), p. 29.
[3] *Ibid.* (1865), p. 92.
[4] *Ibid.* (1865), p. 30.

that collections of direct taxes in the States which had been in secession, be suspended until January 1, 1868.[1] The amendment was passed without debate. Later, another revenue bill was passed in the House, and when it came to the Senate, this section was taken from the tariff bill and added to it, the change being sanctioned by the House.

In the Senate the proposal met with more opposition, on the grounds that the people of these States were able to pay the tax and had already had a credit of five years. Senator Sherman pointed out, however, that there were peculiar conditions which made it advisable that such a law should be passed. All of the States which had even temporary governments had offered to assume the tax, but asked for a credit of three years or more. Because of the unsettled political conditions in those States the Secretary thought it impossible to accept their bonds. It seemed unjust, however, to send in federal tax collectors.[2]

Besides this political obstacle, there were legal difficulties in the way of these States assuming the tax. The Secretary of the Treasury did not think that, according to the law of June 7, 1862, the States that had been in insurrection could assume the tax, because, in providing for tax commissioners, the privilege of assuming the tax was withdrawn. This opinion he expressed in a letter to Governor Throckmorton, of Texas, dated December 28, 1866, in answer to a letter from the governor, in which was inclosed a copy of an act by the Legislature of Texas, assuming the payment of the uncollected portion of their direct taxes.[3] The Secretary was correct in this opinion, for the Supreme Court held that the law of June 7, 1862, superseded that of August 5, 1861, as to the seceded States, in that it created a lien upon the property which could be discharged only by the owner, a friend, or an agent. Both cases in which

[1] *Cong. Globe*, 1st Sess., 39th Cong., 1865–66, p. 3692, col. 2.
[2] *Ibid.*, pp. 4068–69.
[3] *Senate Ex. Doc. No. 24*, 1st Sess., 46th Cong., 1879, p. 23.

this was held — Bennet *v.* Hunter and Turner *v.* Smith — were appealed on writ of error from the Supreme Court of Appeals of Virginia.[1] The amendment was passed and the collections were accordingly suspended until January 1, 1868.[2]

On August 3, 1866, the Secretary issued an order to the Internal Revenue Commissioner to suspend all collection of the direct tax in the States which had been in secession, and also asked if there was any reason for the continuance in office of the persons who had been engaged in collecting this tax.[3] There seemed to be no further duties for these officers except in the case of South Carolina, so the commissions in the other States were dissolved.[4] In that State the retaining of the commission was necessary for the purpose of collecting deferred payments upon lands which had been bid in by the United States and afterwards sold on three years' time to persons in the army and navy.[5]

If Congress suspended the collections of the tax in the States which had been in secession until permanent governments could be reëstablished, with the expectation that the taxes would be assumed by the States, the law was incomplete, for there was no provision permitting the assumption. On the other hand, if this was not the expectation, it seemed unwise either to discontinue the commissions and then reëstablish them or to keep them on the pay roll of the Government when there was nothing for them to do. Therefore, the Commissioner of Internal Revenues, in his report in 1866, recommended that some action be taken to

[1] 9 Wall., p. 326; 14 Wall., p. 553.

[2] Act of July 28, 1866, 14 *U.S. Stat. at Large*, p. 331.

[3] *Senate Ex. Doc. No. 24*, 1st Sess., 46th Cong., 1879, p. 231.

[4] The dates of the dissolution of the commissions were: Alabama, September 30, 1866; North Carolina, December 1, 1866; Georgia, December 15, 1866; Louisiana, December 15, 1866; Mississippi, December 31, 1866; Texas, February 28, 1867; Arkansas, March 5, 1867; Virginia, April 30, 1867; Tennessee, April 30, 1867; South Carolina, October 31, 1870. *Finance Report* (1867), p. 286, and *ibid.* (1870), p. 16.

[5] *Finance Report* (1867), p. 286.

remedy this flaw in the previous law.[1] The Commissioner's suggestion was not followed, however, and on July 23, 1868, a joint resolution was passed suspending the operation of the direct tax law until January 1, 1869.[2] After that time no further action was taken by Congress or the President to put the laws of June 7, 1862, and February 3, 1863, into operation.

Turning our attention now to some of the Northern States, Delaware was the only one that did not formally assume its quota of the direct taxes, so no assessors and collectors were appointed especially for administering that law, but by Act of June 30, 1864,[3] the regular internal revenue officers for that State were instructed to levy and collect the tax. The officers in making the assessments found it impossible to go back to 1862 to determine the value of the property. They completed their assessments April 19, 1867, and then, on the motion of Representative Nicholson[4] of that State, a bill was passed to legalize that assessment[5] and the collection was begun.

The position of West Virginia with regard to the tax was a peculiar one. When the tax was first levied, West Virginia had not been created as a separate State from a portion of Virginia. As its quota of direct taxes had been apportioned with that of Virginia, and as it had no organization as a State, before the second Tuesday of February, 1862, it had had no opportunity to assume its quota.[6] A joint resolution was passed, therefore, directing the commissioners to charge to the State of West Virginia such proportion of the tax apportioned to the State of Virginia as the value of the real estate then comprising the State of West Virginia bore to the value of all the real estate of the State of Virginia

[1] *Finance Report* (1866), p. 62.
[2] 15 *U.S. Stat. at Large*, p. 260.
[3] 13 *U.S. Stat. at Large*, p. 240.
[4] *Cong. Globe*, 2d Sess., 40th Cong., 1867–68, p. 691, col. 3.
[5] Act of February 21, 1868, 15 *U.S. Stat. at Large*, p. 36.
[6] *Supra*, p. 25.

when the law was passed.[1] In order to award to that State the same privileges that the other States had had, the collection was suspended long enough to give to the State the opportunity to assume and to pay the tax.[2] As the State had certain war claims against the United States, on June 21, 1866, Congress passed an act authorizing West Virginia to settle its direct tax account by deducting the same from the amounts due from the United States.[3]

Of the lands bid in by the tax commissioners for the United States, none yielded any revenue to the Federal Government "except in South Carolina, and a few tracts in Florida."[4] Therefore, in 1872, an act was passed to permit the former owners or their heirs to reclaim their former property, then held by the United States, if within two years they presented satisfactory proof of their former ownership and paid the taxes, penalty, and costs, together with interest at ten per cent per annum from the date of the assessment of the tax.[5] Before the time for redemption had expired, it was extended to June 1, 1876.[6]

As there was, naturally, a difference of opinion with regard to the interpretation of the direct tax laws, several cases were brought before the courts, two of which, the "Georgia Case" and the "Direct Tax Case," were of considerable importance. The first involved the question of the liability of the States for the direct tax. On March 3, 1879, a sundry civil bill was passed by Congress, in which the Secretary of the Treasury was instructed to pay $72,296.94 to the State of Georgia for advances made to the United States for the suppression of hostilities of certain Indian tribes

[1] The quota of Virginia as originally apportioned was $937,550.67. After West Virginia was formed the amount apportioned to it was $208,479.65, leaving $729,071.02 to be paid by Virginia. *Cong. Record*, vol. 20, p. 70, col. 2.

[2] Joint Resolution of February 25, 1867, 14 *U.S. Stat. at Large*, p. 568.

[3] 14 *U.S. Stat. at Large*, p. 68.

[4] *Senate Ex. Doc. No. 24*, 1st Sess., 46th Cong., 1879, p. 237

[5] Act of June 8, 1872, 17 *U.S. Stat. at Large*, p. 330.

[6] Act of June 23, 1874, 18 *U.S. Stat. at Large*, p. 252.

from 1835 to 1838.[1] The Third Auditor of the Treasury asked whether the amount ought not to be credited on the direct tax account instead of being paid over to the State. Hon. W. O. Tuggle, for the State, argued that the Federal Government had no claim against the State, as Congress had no power to levy a tax upon the States, and the law of June 7, 1862, made the tax a lien upon the land of the State.[2] In February, 1866, the Legislature had passed a law to assume the tax, and the Secretary of the Treasury, on the grounds that it was illegal, refused to allow them to do it.[3] The First Comptroller of the Treasury, to whom the case was sent for an opinion, decided that the State of Georgia did not owe a debt to the United States and that the sum voted by Congress should be paid at once to the State,[4] as the tax was due from the individual property-owners.

Under section 12 of the Act of June 7, 1862,[5] the proceeds from the sale or lease of lands which had been purchased by the Federal Government, at tax sales in the seceded States, were to be paid into the Treasury. Whenever the insurrection was put down in any State and officers were chosen who would swear allegiance to the United States Constitution, one fourth of the proceeds from the disposal of such lands in that State were to be paid to the governor for reimbursing "loyal citizens." Another fourth was to be used as a fund to aid in the emigration and colonization of free persons of African descent. South Carolina was the only State in which such sales or leases were made to any considerable extent, and in 1882 application was made by that State for one half of the proceeds from these sales and leases. The case was referred to Hon. William Lawrence, First Comptroller of the Treasury, for an opinion, which was rendered December 25, 1882. There were three questions involved: (1) whether the money could be paid

[1] 20 *U.S. Stat. at Large*, p. 385.
[2] *Senate Ex. Doc. No. 24*, 1st Sess., 46th Cong., 1879, pp. 10–11.
[3] *Ibid.*, p. 11. [4] *Ibid.*, p. 9. [5] *Supra*, p. 27.

(granting that legally it should be paid) without further appropriation by Congress; (2) whether this section of the act had ever been repealed,[1] and (3) whether the policy of the Government with regard to the reimbursing of loyal citizens and treatment of free Negroes had changed.

With regard to the first question the Comptroller's opinion was that no appropriation had been made by the act, because there was nothing in the title indicating a purpose to make an appropriation. Also under conditions existing at the time the act was passed, there was no necessity for an appropriation.[2] On the second question, while there had been no formal repeal, yet on plain principles of reason and law a proposition must be accepted within reasonable time if it is to be held as binding. South Carolina, by nonacceptance within a reasonable time,[3] had made it terminable.[4]

On the third question, all evidence seemed to show that the Government had changed its policy toward the reimbursing of loyal citizens. Instead of paying the money over to the States, the Act of March 3, 1871, had provided for the Commissioners of Claims to deal with claims of loyal citizens against the United States.[5] Congress also passed many private relief acts.[6] The change in the condition of the Negro population of the United States had necessitated a change in the policy of the Government toward them. The law of June 7, 1862, was passed when the policy was to save the Union with slavery [7] and there were comparatively few free Negroes. But with the Emancipation Proc-

[1] 3 Lawrence, *Comptroller's Decisions*, p. 332.

[2] *Ibid.*, pp. 335–36.

[3] Twenty years had elapsed from the time of the passage of the law before a claim was made.

[4] 3 Lawrence, p. 338.

[5] 16 *U.S. Stat. at Large*, p. 524; also Act of May 11, 1872, 17 *U.S. Stat. at Large*, p. 97; and Act of March 3, 1873, 17 *U.S. Stat. at Large*, p. 577.

[6] 3 Lawrence, p. 342.

[7] President Lincoln's Proclamation, May 19, 1862, 12 *U.S. Stat. at Large*, p. 1265.

lamation, issued September 22, 1862,[1] that policy had changed. The new policy was further sustained by the proclamation of January 1, 1863,[2] and by articles XIV, XV, and XVI amending the Constitution. Comptroller Lawrence held, therefore, "That no State has any right to payment under the twelfth section of the Direct Tax Act of June 7, 1862." [3]

The entire tax of $20,000,000 was never collected, but small amounts continued to come in down to 1888, when the last payment was received. Utah was the only State or Territory which paid no part of its quota, while there were twelve other States and Territories which did not pay their entire apportionment.[4] The total amount collected was $15,387,233.76,[5] not including the discounts of $2,206,985.67 [6] allowed to the States which assumed the responsibility of collecting the tax. Probably the reasons why the law was not better enforced was because it was so uneven in its operation and so contrary to any legislation to which the people had been accustomed.

The Northern States, to meet the quota of the tax which they had assumed, adopted various methods which may be grouped under four heads: (1) By the release of claims held against the United States. This was the method fol-

[1] 12 *U.S. Stat. at Large*, p. 1267.

[2] *Ibid.*, p. 1268.

[3] 3 Lawrence, p. 345.

[4] The delinquent States and Territories and amounts apportioned to and paid by each, up to February 18, 1888, are: —

State	Amt. apportioned	Amt. collected
Alabama	$529,313.33	$ 22,520.24
Arkansas	261,886.00	154,701.18
Colorado	22,905.33	22,189.96
Florida	77,522.67	4,766.26
Georgia	584,367.33	117,982.89
Mississippi	413,684.67	113,324.66
North Carolina	576,194.67	377,452.61
South Carolina	363,570.67	222,396.36
Tennessee	669,498.00	392,004.48
Texas	355,106.67	180,841.51
Virginia	729,071.02	442,408.09
Washington	7,755.33	4,268.16

(From *Cong. Record*, vol. 20, p. 71.)

[5] Cf. Table II (Appendix).

[6] Cf. Table I (Appendix).

lowed in New Hampshire,[1] New York,[2] Pennsylvania,[3] Illinois,[4] West Virginia,[5] Michigan,[6] Wisconsin,[7] Indiana,[8] Maine,[9] and Missouri.[10] (2) By paying the tax out of money in the state treasury not otherwise appropriated. Vermont[11] and Oregon[12] were the only States to adopt this plan. (3) By borrowing on the State's credit. Massachusetts[13] borrowed from the banks of the State, Maryland[14] issued stock, and Kansas,[15] Connecticut,[16] and Kentucky[17] sold bonds. (4) By increasing the state tax rate on the general property. The States which did this were Rhode Island,[18] New Jersey,[19] Ohio,[20] Minnesota,[21] California,[22] Nevada,[23] Washington,[24] Iowa,[25] also the District of Columbia.[26] California levied a poll tax in addition to the

[1] Act of June 3, 1862, *New Hampshire Session Laws, 1862*, p. 2639.
[2] *New York Senate Ex. Doc.* (1863), No. 4, pp. 7–10.
[3] Act of February 10, 1862, *Pennsylvania Session Laws, 1862*, p. 18.
[4] Letter from State Auditor, J. S. McCullough.
[5] Act of June 21, 1866, 14 *U.S. Stat. at Large*, p. 68.
[6] Act of January 10, 1862, *Michigan Session Laws, 1862*, pp. 1–2.
[7] Act of April 8, 1862, *Wisconsin Session Laws, 1862*, p. 127.
[8] Act of March 6, 1865, *Indiana Session Laws, 1865*, p. 47.
[9] Resolve of February 28, 1862 (Chap. 133), *Maine Acts and Resolves, 1862*, p. 173.
[10] Act of April 17, 1866, 14 *U.S. Stat. at Large*, p. 39.
[11] Act of November 16, 1861, *Vermont Session Laws, 1861*, p. 50.
[12] Act of October 20, 1862, *Oregon Session Laws, 1862*, p. 109.
[13] Act of April 30, 1862, *Massachusetts Acts and Resolves, 1862*, p. 236.
[14] Act of February 27, 1862, *Maryland Session Laws, 1861–62*, pp. 155–57.
[15] Letter from State Treasurer, Mark Tulley.
[16] Letter from State Treasurer, Costello Lippett.
[17] *Kentucky Public Acts, 1864*, p. 73.
[18] *Laws of Rhode Island, 1862*, January Session, p. 195.
[19] *New Jersey Session Laws, 1862*, p. 346.
[20] Act of April 16, 1862, *Ohio Session Laws, 1862*, p. 53.
[21] Act of March 10, 1862, *Minnesota Session Laws, 1862*, p. 41.
[22] Act of April 12, 1862, *California Session Laws, 1862*, pp. 205–06.
[23] Act of November 29, 1861, *Nevada Territory Session Laws, 1861*, p. 243.
[24] Act of January 25, 1862, *Washington Territory Session Laws, 1861–64*, p. 47.
[25] Act of March 10, 1862, *Iowa Session Laws, 1862*, p. 17.
[26] Act of July 1, 1864, 13 *U.S. Stat. at Large*, p. 331, and Act of February 25, 1865, *ibid.*, p. 439.

general property tax. In the case of Dakota,[1] Nebraska,[2] and New Mexico[3] the tax was deducted from the appropriations made by Congress for certain territorial expenses.[4]

As time passed a feeling began to develop, throughout the Northern States especially, that this tax had worked an injustice to a large part of the country. About seven eighths of the amount assessed had been collected, some of it at considerable difficulty and expense, during a period of twenty-seven years. It appeared that some of the remainder would never be paid unless the Government took the land and sold it for the taxes. It was therefore suggested that as the Treasury not only did not need the money, but also had a growing surplus, the easiest way to settle the question would be to refund to the several States and Territories the portion which they had paid and to cancel the debts of the others. For the fiscal year ending June 30, 1883, there was an excess of receipts over expenditures of $132,879,444.41.[5]

During the next session of Congress, a bill was introduced for the refunding to the States and Territories of the money paid in by them or their citizens as direct taxes.[6] For the next seven years one or more bills of like nature were introduced and debated each year. The legislatures of several of the States passed resolutions asking Congress to pass such a measure.[7] During the second session of the Forty-ninth Congress, the Senate passed such a bill,[8] but it did not come to a vote in the House. The Democratic majority in the House favored

[1] Act of February 25, 1863, 12 *U.S. Stat. at Large*, p. 693.

[2] Act of July 1, 1862, 12 *U.S. Stat. at Large*, p. 446.

[3] Act of July 1, 1862, 12 *U.S. Stat. at Large*, p. 489.

[4] The State Treasurer of Colorado reports that he can find no record of how that Territory paid her quota.

[5] *Finance Report* (1883), p. iv.

[6] *Cong. Record*, vol. 15, Index, p. 135, col. 2.

[7] Beginning with California in 1886. *Ibid.*, vol. 17, p. 3629, col. 2.

[8] *Ibid.*, vol. 19, p. 542, col. 1.

a reduction in the treasury surplus by lowering the tariff rates, rather than by refunding this tax. Finally, in February, 1889, a bill was passed by both houses,[1] but President Cleveland vetoed it.[2] The Senate again passed the bill by a vote of 45 to 9, 22 Senators being absent,[3] but it was not repassed in the lower House. At the following session the bill was again passed by both houses, and approved by President Harrison.[4] On June 30, 1890, the surplus revenue amounted to $105,344,496.03. Of this amount there was used in the redemption of notes and fractional currency, and purchase of bonds for the sinking fund, the sum of $48,094,564.66, leaving a net surplus for the year of $57,249,931.37.[5]

For several years there had been lengthy debates in both houses of Congress on this question of refunding to the States the amounts paid in direct taxes. But the objections to that course may be summed up under four heads: —

First, Congress was exceeding the power granted to it in the Constitution in thus expending the public money. There was no question as to the legality of the direct tax, so the refunding of this money could not be justified on the ground that it had been illegally collected. Neither could it be claimed that the appropriation was for the common defense; for, while the money originally collected was for that purpose, the proposed disbursement was not. The question of the right of Congress to make a free gift of a surplus accumulated in the Treasury had long been doubted. In 1836, the large surplus of the Treasury was distributed among the States as a loan or deposit, subject to the call of the Government[6] and not as a free gift,

[1] Cong. Record, vol. 20, p. 2113, col. 1, and p. 1981, col. 2.
[2] *Ibid.*, vol. 20, pp. 2610–11.
[3] *Ibid.*, p. 2614, col. 1.
[4] Act of March 2, 1891, 26 *U.S. Stat. at Large*, p. 822.
[5] *Finance Report* (1890), p. xxii.
[6] Act of June 23, 1836, 5 *U.S. Stat. at Large*, p. 55.

although it was hardly expected that the money would ever be returned.

Second, the supporters of the bill asked for its passage on the grounds of justice, because some States had paid all of their quota, while others had paid little or none of theirs. In answer to this argument, however, it was said that on the same theory several other taxes would have to be refunded, especially the tax on cotton and the income tax. While the States which had not paid the direct tax were largely Southern States, yet these same States had paid over $68,000,000[1] on cotton, which they claimed was a special land tax, and thus unconstitutional because not apportioned, and ought therefore to be refunded. The income tax, they said, had not been collected any better in the Southern States than had the direct tax, and, therefore, on this theory what had been collected should be refunded.

Third, to some people it seemed that the Federal Government was making a present to some of the States for not going into rebellion. On this point President Cleveland, in his veto message in 1889, said: "The loyal States should not be paid the large sums of money promised them by this bill because they were loyal and other States were not, nor should the States which rebelled against the Government be paid the smaller sum promised them because they were in rebellion and thus prevented the collection of their entire quotas, nor because this concession to them is necessary to justify the proposed larger gifts to the other States."[2]

One other objection urged against the bill was the way in which the proposed refunding of the money was to be administered. In all the States and Territories where the direct tax had been collected, either directly or by the sale of property, the refund was made only under the condition

[1] *Cong. Record*, vol. 20, p. 72.

[2] Richardson, *Messages and Papers of the Presidents*, vol. 8, p. 841.

that the governor should hold it in trust for those persons, who, within six years after the passage of the act, should present claims and prove that they were the persons or the legal representatives of the persons who had paid the tax or owned the property sold.[1] It was argued that if the money was to be paid back to the individuals who had paid the tax, it should be done by federal authorities; and it should not be left to the States to see that just distribution was made. Without doubt there was considerable justice in the claim set up by the opponents of the measure, for it was devised, in part at least, as a means of disposing of the embarrassing surplus, which the protective tariff was maintaining. After the act authorizing the refund was passed in 1891, the States began to call for the money, and it was five years before the last call was made. In these five years $15,221,906.39[2] were distributed among the States and Territories.

In the parishes of St. Helena and St. Luke's in South Carolina, where the taxes could not be collected otherwise, large tracts of land had been taken by the United States Government and thus the owners had been divested of their titles.[3] The last clause of this act provided that the Secretary of the Treasury should be authorized to pay certain sums to such persons as should apply and prove their claims, according to the value of the land at the time it was sold. For this purpose an appropriation of $500,000 was made.[4] Claims under this law were presented and paid for nine years, from 1892 to 1900. The

[1] Act of March 2, 1891, 26 *U.S. Stat. at Large*, p. 822.

[2] The amount paid out each year was: —

1891,	$11,521,496.92	(*Finance Report* (1892), p. xxiii).
1892,	2,610,855.07	
1893,	816,315.65	(*Ibid.* (1894), p. xxvii).
1894,	91,733.02	
1895,	181,505.65	(*Ibid.* (1895), p. xxi).

[3] *Supra*, p. 30.

[4] Act of March 2, 1891, 26 *U.S. Stat. at Large*, p. 823.

total amount refunded to the States by the Treasury was $493,038.[1]

The settling of these last claims in 1900 closed the history of the direct tax of the Civil War. The tax cannot be said to have been a very great success, for it caused considerable dissatisfaction among the people, and at the same time did not supply the Treasury with much ready money. As the best tax takes from the people as little as possible above what goes into the public treasury, the expense of collection was too great to recommend this as a good tax. Allowing fifteen per cent discount to the States which assumed the collection of the tax, shows that a greater proportion of it had to be paid out to secure the remainder for the Government than could be justified on sound principles of taxation. The granting of the power to levy a direct tax is doubtless a wise provision, but it should be exercised only in case of the gravest emergency.

[1] The amount paid each year was: —

1892,	$ 35,751.50	(*Finance Report* (1893), p. xxix).
1893,	278,234.42	
1894,	128,180.13	(*Ibid.* (1895), p. xxi).
1895,	15,893.43	
1896,	2,937.02	(*Ibid.* (1897), p. ix).
1897,	14,787.37	
1898,	455.50	(*Ibid.* (1899), p. xix).
1899,	14,999.07	
1900,	1,799.56	(*Ibid.* (1900), p. xix).

CHAPTER III

THE INCOME TAX

SECRETARY CHASE, in his report to the special session of Congress in July, 1861, did not recommend, and the first revenue measure introduced did not include, an income tax. In the seventy-two years since the adoption of the Constitution, such a tax had never been tried by the Federal Government. The only time it had been suggested was in a report by Secretary Dallas in 1815, where an income tax was proposed in order to help raise revenues to defray the cost of the War of 1812,[1] but the proposal does not seem to have been seriously considered by Congress. Professor Seligman thinks that it is probable, if the war had not ended so soon, such a tax would have been adopted;[2] but with the close of the war, the drain on the Treasury declined and the income tax proposal was not renewed.

In 1861, the people of the United States did not seem to realize how serious the war would become, and the revenue measure passed during the extra session of Congress was, on the whole, rather conservative. For that reason it seems rather strange that an entirely untried tax should have been included in it.

The first bill presented in the House looking to an increase in the revenues, as has been said, made no mention of an income tax. This bill, failing to meet with sufficient support, was supplemented by a measure which provided

[1] *American State Papers*, vol. VI, p. 887. In this report on the state of the Treasury to the Committee of Ways and Means, Mr. Dallas enumerates several proposals for increasing the revenues, such as inheritance tax, stamp tax, tax upon wheat, flour, and upon dividends, and concludes, "An income tax may be easily made to produce $3,000,000."

[2] *The Income Tax*, p. 430.

for $30,000,000 from direct taxes. After considerable discussion in the lower House, this bill was recommitted with instructions "to inquire into the expediency of so amending it as to provide that the tax on real and personal estate provided therein shall be levied, assessed, and collected in the several States, . . . in the same manner as state . . . taxes are . . . assessed and collected."[1] On the next day the Committee on Ways and Means reported that they were "unable to devise any provision that will be constitutional, and carry into effect the instructions of the House."[2] This led to further debate, and the bill was again recommitted with instructions to reduce the amount to be raised by direct taxes to $20,000,000 and to raise such other sums as might be deemed necessary "by internal duties or direct taxation upon personal income or wealth."[3] Mr. Bingham had already contended that Congress could not constitutionally, by the direct tax section of the bill, reach incomes, but that it would be possible to do it through the section dealing with duties or excises.[4] In the debates in the House of Representatives[5] and in discussion in the public press,[6] it had been suggested that the direct tax would bear unequally upon the different parts of the country, being especially heavy on the interior States to the west and southwest, and that an income tax would rest most heavily upon those States where the direct tax was least burdensome. For this reason Mr. Edwards, of New Hampshire, said that Congress had the power to tax all the property of the country, and asked what difference it made to the House whether it was called a "direct"

[1] *Cong. Globe*, 1st Sess., 37th Cong., 1861, p. 252, col. 3.

[2] *Ibid.*, p. 268, col. 2.

[3] *Ibid.*, pp. 306–08. The resolution for recommitting as first proposed was to reduce the direct tax one half and to extend the list of personal property, upon which internal duties were laid, so as to make up the deficit.

[4] *Cong. Globe*, 1st Sess., 37th Cong., 1861, p. 272, col. 3.

[5] *Ibid.*, pp. 249, 271, 272, 282, 306.

[6] New York *Times*, August 3, 1861, p. 4, col. 4.

tax or not. "Why should we stickle about terms? Why should we not impose the burdens which are to fall upon the people of this country equally, in proportion to their ability to bear them?"[1]

When the committee reported the bill again, the direct tax had been diminished by one third and an income tax of three per cent on all incomes over $600 a year was included.[2] Mr. Morrill, of Vermont, thought that by this change the inequality was shifted so that the landowners of the interior and Western States would be least burdened. He said: "The indirect or income tax which is to be raised by this bill will be, in my judgment, at least twice as much as what we shall raise by direct taxation. Now, I undertake to say there is a far greater inequality in that than in the other tax; but this time the boot is on the other leg."[3] Without further important changes the bill as reported by the committee was passed by the House by a vote of 77 to 60.[4]

In the mean time, the original revenue bill[5] had been passed by the House and sent to the Senate. There, an amendment had been added, placing a tax on incomes. For persons residing in the United States, the rate was five per cent, but the tax was collected only on the part of an income which was in excess of $1000. The rate was seven and one half per cent on incomes derived from property owned in the United States by any citizen of the United States residing abroad. However, that portion of any person's income which was derived from the interest on the securities of the United States[6] was to be taxed only two and one half per cent.[7]

The income tax amendment to the direct tax bill had

[1] *Cong. Globe,* 1st Sess., 37th Cong., 1861, p. 283, col. 1.

[2] *Ibid.*, p. 323, col. 2. [3] *Ibid.*, p. 330, col. 2. [4] *Ibid.*, p. 331, col. 1.

[5] *Supra*, p. 19. This was the bill introduced July 16, providing for an increase in tariff rates.

[6] This lower rate was proposed in order to encourage people to invest in Government securities.

[7] *Cong. Globe,* 1st Sess., 37th Cong., 1861, p. 314, col. 2.

met with little debate in the House, and the Senate amendment to the tariff bill met with even less in the latter chamber.[1] As is the usual custom, when a bill which has passed one chamber is amended in the other, the revenue measures were referred to a conference committee. This committee had under consideration all the revenue bills which had been passed in either chamber, and reported back one bill which included the changes made in tariff rates, the direct tax and the income tax. The rate reported on incomes by the committee was three per cent on all incomes of over $800, which was increased to five per cent if the property from which the income was derived was owned by American citizens residing abroad; but the rate on incomes derived from United States securities was only one and one half per cent. Besides the $800 exemption already mentioned, all national, state, and local taxes were to be deducted from the income before the tax was assessed. The tax was to be levied on the income for the year closing December 31, 1861, and was to be paid on or before June 30, 1862.[2]

The wording of the sections of the law levying the income tax was somewhat ambiguous. Senator Clark called attention to this ambiguity, asking whether the tax was to be levied upon the net or the gross income. Senator Simmons explained that net income was what was meant, but to incorporate the details in the bill would make it more confusing than it was as reported by the committee.[3] It was left to the Secretary of the Treasury to provide all the details of assessment, and to determine what should be assessed and what should be deducted.[4]

[1] Only Senators Simmons of Rhode Island, Howe of Wisconsin, and Clark of New Hampshire, participated. *Cong. Globe*, 1st Sess., 37th Cong., 1861, pp. 314–16.

[2] Act of August 5, 1861, 12 *U.S. Stat. at Large*, pp. 309–10.

[3] *Cong. Globe*, 1st Sess., 37th Cong., 1861, p. 315, col. 2.

[4] The act provided, "The said taxes to be assessed and collected under such regulations as the Secretary of the Treasury may prescribe." 12 *U.S. Stat. at Large*, p. 309.

As Congress was to meet again on the first Monday in December, which was a month before the close of the year on which the incomes were to be figured, and seven months before the tax need be paid, the Secretary took no steps in preparation for the collection of the tax. In his annual report he said that another reason why he had not begun to organize the internal revenue machinery was that the governors of various States had indicated the intention of their States to assume the direct tax,[1] and it seemed desirable to avoid as long as possible the introduction of federal agencies into the States. He, therefore, questioned the advisability of going to the trouble and expense which would be necessary in order to collect the income tax. He commended the wisdom of Congress in delaying the time of collection, for that afforded "the opportunity for revision and modification." There were no statistics available from which it was possible to estimate what could be expected from the tax, yet he thought, after deducting other taxes, a large portion of the incomes would fall below $800 and thus be exempted. Mr. Chase was not an enthusiastic supporter of the tax, favoring rather the increasing of the direct tax so that $20,000,000 would be secured from the loyal States, and the laying of excise duties on stills, liquors, tobacco, bank-notes, carriages, legacies, deeds and conveyances.[2]

Secretary Chase was always very timid about taxing,[3] and thought he was asking a great deal when he told Congress that he considered it would be necessary to raise $50,000,000 by internal taxes. He said, "The Secretary is aware that the sum is large; but . . . he feels that he must not shrink from a plain statement of the actual necessities of the situation."[4]

As the war progressed, the financial conditions in the

[1] *Supra*, p. 25. [2] *Finance Report* (1861), pp. 14–15.
[3] Bolles (1861–85), p. 179; also Seligman, *The Income Tax*, p. 436.
[4] *Finance Report* (1861), p. 15.

Northern States did not improve. Unexpected military reverses, with increased expenditures and loss of confidence in the public credit, resulted in the suspension of specie payment throughout the country, headed by the banks of New York City on December 30, 1861. The Government soon followed the example set by the banks.[1] It was very evident that additional revenues must be raised. Congress either understood the situation better or was less fearful of taxing than was the Secretary, and on January 21, 1862, passed a resolution, "That, in order to pay the ordinary expenses of the Government, the interest on the national loans, and have an ample sinking fund for the ultimate liquidation of all public debts, a tax shall be imposed which shall, with the tariff on imports,[2] secure an annual revenue of not less than one hundred and fifty million dollars."[3] During this session many memorials were sent to Congress, both by individuals and by private organizations, asking that provisions be made for securing large revenues.[4] The Chamber of Commerce of the State of New York asked that at an early date a revenue system be organized on a plan, which they had to suggest, that would produce at least $264,000,000 annually.[5] The American Geographical and Statistical Society of New York memorialized Congress

[1] Dewey, p. 281.

[2] The estimated returns from the ordinary sources for the fiscal year ending June 30, 1862, were $40,000,000. *Finance Report* (1861), p. 15.

[3] 12 *U.S. Stat. at Large*, p. 612.

[4] In the office of the File Clerk of the House of Representatives at Washington, there is a large number of communications received by the Secretary of the Treasury, the members of the Ways and Means Committee and other Congressmen, asking that more taxes be levied. Some are signed by one person only, while others have numerous signatures, but as there is nothing to indicate the station of the writer in most instances, it is difficult to judge of their value, except that they show that there was a widespread feeling in the Northern States that more taxes should be raised for the defense of the Union. These communications are in boxes marked "Miscellaneous Papers of the Ways and Means Committee, 1st, 2d, and 3d Sessions, 37th Congress."

[5] *Bankers' Magazine* (New York), vol. 16, pp. 913–16 (June, 1862).

to adopt a plan by which $268,000,000 could be raised by internal taxes alone.[1]

From the time Congress convened in December, 1861, the Ways and Means Committee in the House had been working on a revenue measure which they presented on March 3, 1862.[2] Following the spirit of the joint resolution of January 21, the bill provided for taxes, which, it was estimated, would yield approximately $164,000,000 annually.[3] The internal taxes were to produce nearly $114,000,000, or more than twice the amount for which the Secretary had asked. The bill also included an income tax, but it was not a very important item, as the return from this source was estimated at only $5,000,000. Mr. Morrill, of Vermont, in reporting the bill said that the income duty was perhaps the "least defensible" of any part of the report. Most people would be already sufficiently taxed and the tax was inquisitorial; but he gave as the reason for retaining it that there were "many thousands who are employed on a fixed salary, most of whom would not contribute a penny unless called upon through this tax."[4]

This portion of the bill again met with little discussion either within Congress or among the general public. Amendments were proposed to exempt from taxation income from real estate, because of the working of the direct tax,[5] as well as interest upon securities of the United States, in order to encourage further investments in them.[6] Both of these propositions failed to secure sufficient sup-

[1] *Bankers' Magazine* (New York), vol. 16, p. 727 (March, 1862). The sources and estimated amounts suggested in this memorial were: Stamps, $40,000,000; income, $20,000,000; direct tax, $30,000,000; tobacco, $30,000,000; cotton, $20,000,000; sugar, $9,000,000; licenses, $20,000,000; watches, $4,000,000; railroad receipts, $6,000,000; internal tonnage duty, $5,000,000; shipping, $5,000,000; liquors, $20,000,000; beer, $12,000,000; carriages, $2,000,000; live stock, $30,000,000; advertisements, $3,000,000; pianos, $2,000,000; auction sales, $10,000,000.

[2] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 1040, col. 3.

[3] *Ibid.*, p. 1197, col. 1.

[4] *Ibid.*, p. 1196, col. 3.

[5] *Ibid.*, p. 1530, col. 3.

[6] *Ibid.*, p. 1531, col. 3.

port to be added to the bill. The bill passed the House with little difficulty, and was sent to the Senate, where it was introduced on April 10, 1862.[1]

The bill as it came from the House placed a tax of three per cent on all incomes over $600 and also included a provision for a direct tax. When reported by the Finance Committee in the Senate the income tax provision was left unchanged, but only one member of the committee, Mr. W. P. Fessenden, favored the direct tax.[2] During the debate, the direct tax was abandoned, but in order not to reduce the revenues which it was estimated would be secured under this bill, the rates on incomes were raised and made progressive. All incomes from $600 to $10,000 were to pay three per cent; from $10,000 to $50,000 the rate was five per cent; and over $50,000 it was seven and one half per cent. In all cases the tax was to be levied only on the income in excess of $600.[3] The conference committee compromised on the question of the direct tax by suspending its operation for two years rather than abandon the tax altogether.[4] The progressive principle, in the case of incomes, was retained, but with some of the rates changed.

The act as signed July 1, 1862, placed a duty of three per cent on all incomes up to $10,000 and five per cent on all incomes over $10,000, $600 to be exempted in all cases; American citizens residing abroad were to pay five per cent on all incomes derived from property held in the United States; and the income from securities of the United States Government was taxed only one and one half per cent. In estimating the income, several deductions were to be allowed: All national, state, and local taxes paid during the year [5] and all incomes taxable under other sections of the

[1] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 1603, col. 3.
[2] *Ibid.*, p. 2350, col. 3.
[3] *Ibid.*, p. 2486, col. 1.
[4] *Ibid.*, p. 2890, col. 3.
[5] In May, 1866, a decision was rendered by the Internal Revenue Commissioner that when special assessments for local improvements were made ratably upon all persons liable to the same, that is, where

same law.[1] Section 91 provided that "all gains, profits, or income . . . derived from . . . any articles manufactured, upon which specific, stamp, or ad valorem duties shall have been directly assessed or paid, shall also be deducted."[2] Professor Seligman says that this would have meant a complete exemption for all business incomes, most of which were derived from dealing in manufactured articles. It seems, however, that no one tried to profit by this badly drawn provision,[3] and the next year the words, "or on any articles manufactured," were stricken out of the law.[4] The tax was to be paid on or before June 30, 1863, and thereafter until 1866 and no longer. The Act of August 5, 1861, was repealed so far as incomes were concerned and so no tax was ever collected under it.

This bill, for the first time in the history of the Federal Government, applied the principle of "tapping revenue at the source." The tax on salaries in excess of $600,

each person liable to assessment was assessed in proportion to the *value of his property* and not according to the estimated benefit he received from the improvement, the tax so assessed might be deducted from his income for the year when paid. But unless assessed ratably the assessment cannot be considered as a "tax" within the meaning of the law and so could not be deducted from the income. 3 *Internal Revenue Record*, p. 188. (Hereafter, this publication when referred to will be indicated by *I.R.R.*) In a later decision the principle was stated that assessments made by the municipal authorities, upon the property-holders of a certain locality in a city or town, on account of special improvements in or upon the streets adjoining their premises, should be allowed as deductions from the income of the persons so assessed. 5 *I.R.R.*, p. 115.

[1] The incomes taxed under other sections which were to be deducted were, "All gains, profits, or income derived from salaries of officers, or payments to persons in the civil, military, naval, or other service of the United States, . . . above six hundred dollars, or derived from interest or dividends on stock, capital, or deposits in any bank, trust company, or savings institution, insurance, gas, bridge, express, telegraph, steamboat, ferryboat, or railroad company, or corporation, or on any bonds or other evidences of indebtedness of any railroad company or other corporation, which shall have been assessed and paid . . . or derived from advertisements." Act of July 1, 1862, 12 *U.S. Stat. at Large*, p. 474.

[2] Act of July 1, 1862, 12 *U.S. Stat. at Large*, p. 474.

[3] Seligman, *The Income Tax*, p. 438.

[4] Act of March 3, 1863, 12 *U.S. Stat. at Large*, p. 718.

received by all persons in the civil, military, or naval services of the United States, was to be three per cent on and after the 1st day of August, 1862, and it was made the duty of any paymaster or disbursing officer of the Government to withhold the tax when paying the salaries. No time limit was set to the operation of this section of the law.[1] It seemed to some people that this was going to give an advantage to certain individuals, in that there was no increase of rates when the salary exceeded $10,000; but as there were very few government salaries at that time that exceeded this limit, it really worked very little injustice. In fact, after the issue and depreciation of the greenbacks, the persons who were in the service of the Government found the tax more burdensome, perhaps, than most other people. Before the war the salaries paid clerks were generally regarded as very liberal. But as the cost of living rose many employees found that they could hardly support a family on their income. In order that salaries might be increased, it was necessary for Congress to take action, and this Congress seemed unwilling to do. There were two difficulties lying in the way of securing extra appropriations for the federal employees who needed them the most. The war was making such demands on the Treasury, both for the actual carrying-on of hostilities and for the salaries of extra civil employees, that members of Congress were not willing to increase the appropriations any more than was absolutely necessary. Besides this there were political reasons. The salaries were graded to a certain extent, the men higher up getting higher salaries. If the salaries of the more poorly paid men had been increased, it would have been necessary to raise those also of the men who could pay the tax and have sufficient income left to meet their needs. Men who were working for private corporations did not find it so difficult to get their salaries raised as cost of living advanced, and we find that many men left the

[1] Act of July 1, 1862, 12 *U.S. Stat. at Large*, p. 472.

service of the Government to take positions with private employers.[1]

Another application of this same principle was in the collections to be made from certain corporations. All persons having the care and management of any railroad company were required to pay to the Government three per cent upon all interest or coupons on bonds, or dividends on stocks, whenever the interest, coupons, or dividends were payable after July 1, 1862.[2] Also after July 1, 1862, all banks, trust companies, and savings institutions, and all fire, marine, life, inland, stock and mutual insurance companies were required to pay three per cent on all dividends declared and paid, and on all sums added to their surplus or contingent funds.[3] The law made no provision for exemptions of any kind in these taxes paid by corporations, for, as the tax was to be assessed in a lump sum on all money paid out as interest or dividends, it seemed impracticable to Congress to permit this deduction. Neither was there any provision for a higher rate when the amount paid to any one person was over $10,000. This would have been just as impracticable as allowing exemptions. However, when regulations were sent out on May 1, 1863, for the collection of the income tax, the assessors and assistant assessors were instructed that in all cases where an income exceeded $10,000 and a deduction had been made therefrom, on the ground that a portion of such income had been subject to a three per cent duty upon dividends or interest paid by a company or corporation, a tax of two per cent should be assessed upon such part of the income as had already paid three per cent.[4]

For the assessing of the tax on individuals, each person was required to make a return of his income on a list or

[1] Mitchell, *History of the Greenbacks*, p. 333.
[2] 12 *U.S. Stat. at Large*, p. 469.
[3] *Ibid.*, p. 470.
[4] Boutwell (1863), p. 197.

schedule provided by the proper internal revenue officer, and in case of neglect or refusal to return such list, the officer was to proceed to assess the income at his discretion. If the assistant assessor considered any return fraudulent, he was to increase the amount, but the taxpayer might have it reduced to the original amount by taking an oath that the statement was true. Any one who took an oath that he did not have an income of $600 was to be exempt.[1] The tax was to be a lien upon any property held by the recipient of the income, and for nonpayment such property could be taken by the United States and sold.[2]

Before the law went into effect another deduction from incomes was allowed. On March 3, 1863, a law was approved in which was the clause, "That in estimating the annual gains, profit, or income, of any person, . . . the amount actually paid by such person for the rent of the dwelling-house or estate on which he resides shall be first deducted."[3] This provision was extended by a ruling of the Commissioner of Internal Revenues so as to apply to room rent in the case of persons boarding and renting a room or rooms.[4]

Other rulings by the Commissioner were necessary before the tax could be levied properly. They dealt with the three questions, (1) Where was the tax to be assessed? (2) Who was subject to the tax? and (3) What should be included as income? On the first question the Commissioner ruled that the tax had to be assessed in the place where a person resided, and the place where a man was entitled to vote was deemed his residence. When not a voter, the place where personal property taxes were paid was to be held as the place of residence.

The ruling on the second question was that the in-

[1] Act of July 1, 1862, 12 *U.S. Stat. at Large*, p. 475.
[2] *Ibid.*, p. 474.
[3] *Ibid.*, p. 723.
[4] *U.S. Internal Revenue Decisions* (1871), nos. 110 and 113, pp. 61 and 62.

come tax was to be assessed upon the actual income of *individuals*, and firms, as such, were not to make returns.[1] In the case of a limited partnership, formed with the condition that no dividends were to be paid until the expiration of the partnership, each member was required to make returns of his share of the profits, as though a division of profits had been made.[2]

On the third question many rulings were necessary, the most important being: pensions received from the United States Government were subject to the tax in the same way as other incomes.[3] The money spent in keeping old buildings in repair was to be deducted before the tax was assessed, but the amount expended on permanent improvements or on altering buildings so as to make them substantially new, was not to be deducted from the income.[4] Fertilizers purchased by a farmer to maintain his land in its existing condition of productivity were to be treated as "repairs."[5] Premiums paid for life insurance were not to be deducted from the returns of taxable income.[6] Gifts, such as marriage fees, donations from members of a congregation to the pastor, etc., when in the nature of compensation for services rendered, were taxable.[7] Property used in business when destroyed by fire, might be restored to the same condition as when destroyed and the expense deducted from the profits. If it was insured, only the difference between the insurance received and the amount expended in restoration was allowed.[8]

After the issue and depreciation of the greenbacks, a decision of the Commissioner of Internal Revenues was necessary with regard to the collection of the tax on holders of United States securities. When the interest on these

[1] *U.S. Internal Revenue Decisions* (1871), p. 61.
[2] *Ibid.*, p. 59.
[3] *Ibid.*, p. 59.
[4] Boutwell (1863), p. 306.
[5] *U.S. Internal Revenue Decisions* (1871), p. 60.
[6] Boutwell (1863), p. 304.
[7] *Ibid.* (1863), p. 305.
[8] *U.S. Internal Revenue Decisions* (1871), p. 60.

securities was paid in gold, only the amount actually received was to be treated as derived from such securities, and so be assessed at one and one half per cent. However, if the gold was subsequently sold at a premium, the amount of profit realized was to be taxed the same as other business incomes.[1]

At the time provided in the law the income tax provisions were put into operation. When the Commissioner of Internal Revenues made his report in November, 1863, he recommended that the law "be left untouched, except in a few slight particulars."[2] He considered the tax on dividends of mutual life insurance companies impracticable and almost incapable of collection, and, therefore, recommended that it be discontinued.[3] He also suggested that the law would be fairer in its operation if, instead of allowing a deduction for house rent actually paid, that practice be discontinued, and all persons owning and living in a house be charged with its rental value as income. In other words, he proposed that the tax should not be limited to money incomes, but that to a certain extent psychic incomes should also be included.[4] He thought a change in rates might properly be made, making them more progressive.[5] The people had accepted the tax with cheerfulness, and so far there had been no serious complaint about its administration.[6] In the House, the Ways and Means Committee did not see fit to follow the suggestions of the Internal Revenue Commissioner. On April 14, 1864,[7] a bill was reported to provide internal revenues, in which the income tax was put at five per cent on all incomes over

[1] *U.S. Internal Revenue Decisions* (1871), p. 77.

[2] *Finance Report* (1863), p. 70.

[3] *Ibid.* (1863), p. 64.

[4] Cf. Fisher, *Elementary Economics*, p. 61; Seligman, *The Income Tax*, p. 19.

[5] The rates suggested were: on incomes from $5000 to $10,000, at 4 per cent; from $10,000 to $20,000, at 5 per cent; on those over $20,000, at 5½ or 6 per cent.

[6] *Finance Report* (1863), p. 70.

[7] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 1634, col. 1.

$600.[1] In Committee of the Whole, Mr. Frank, of New York, offered an amendment to the effect that a tax of five per cent be levied on all incomes in excess of $600 up to $10,000, seven and one half per cent on the excess of $10,000 up to $25,000, and ten per cent on the excess of $25,000. He said, "I offer the amendment because I think it is just, right, and proper that those having a larger amount of income shall pay a larger amount of tax"; and continued that he did not believe it could be held unconstitutional on the ground that it was not uniform.[2]

This was the first time that the income tax had called forth any really serious debate, and even then the debate was not on the subject of the tax itself, but on the question of graduated rates. In the discussions on the previous act there was no objection made that the different rates were unjust, but now the Ways and Means Committee were of the "opinion that the principle was a vicious one." Mr. Stevens said, "I see no reason why a man should be punished in this way because he is rich."[3] Mr. Morrill said, "Experience under the provisions of the old act on this subject shows that the people who are taxed unequally on their incomes regard themselves as being unjustly treated, and seek all manner of ways and means to evade it. This inequality is in fact no less than a confiscation of property."[4] To this it was answered by Mr. R. P. Spalding, of Ohio, that Congress had gone on the prin-

[1] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 1876, col. 1.

[2] He said, "I do not see how any member of the Committee of Ways and Means, who have reported this bill, can adduce such an argument as that. They have made discriminations in several instances in this bill in the rates of taxation. They impose no tax upon the retail dealer who sells goods to an amount less than $1000, while the dealer who sells to an amount over $1000 must pay a license. On tailors and other manufacturers for customers, less than $600 they do not tax; over that they tax three per cent." *Ibid.*, p. 1876, col. 1.

[3] *Ibid.*, p. 1876, col. 2.

[4] *Ibid.*, p. 1876, col. 3.

ciple of taxing luxuries, "because the consumption is with those who are able to pay," and, therefore, the graduated tax was justifiable, as the extra rate was a luxury tax.[1]

Although two of the most vigorous opponents of the graduated system, Messrs. Morrill and Stevens, were members of the Ways and Means Committee, they failed to command the support of the House and Mr. Frank's amendment was adopted.[2] In closing the debate on the bill, Mr. Morrill again protested against the difference in rates. He said, "The man of moderate means is just as good as the man with more means, but our theory of government does not admit that he is better, and I regard it as an evidence of the spirit of agrarianism to present a law here which shall make any such distinction." He thought it would drive men of large means abroad in order to escape the tax.[3]

The Finance Committee, in reporting the bill back to the Senate after it had been received from the House, proposed to amend it by placing a duty of five per cent on incomes in excess of $600 up to $10,000 and seven and one half per cent on all incomes in excess of $10,000.[4] The objections raised in the Senate were along the same lines as those in the House, namely, that the discrimination was unjust and inequitable.[5] Mr. Sumner, of Massachusetts, referred to authorities on political economy to prove that the principle of graduation was just. He said that while with one exception English economists did not support progressive rates, the French were unanimous in their support. The one English exception was Adam Smith, from whose book, "The Wealth of Nations," he quoted in support of the principle. From the French economist Say, he quoted, "A tax merely proportionate to individual income

[1] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 1877, col. 1.
[2] *Ibid.*, p. 1877, col. 2.
[3] *Ibid.*, p. 1940, col. 2.
[4] *Ibid.*, p. 2513, col. 1.
[5] *Ibid.*, pp. 2513–16.

would be far from equitable; . . . taxation cannot be equitable unless its ratio is progressive."[1]

The Senate in Committee of the Whole adopted the amendment of the Finance Committee.[2] However, when the bill came up for final adoption it was further amended. On the motion of Mr. Wilson, of Iowa, the seven and one half per cent rate was made to apply to all incomes in excess of $5000,[3] and on the motion of Mr. J. W. Grimes, of Iowa, the rate on all incomes over $15,000 was put at ten per cent.[4] These changes seem to point to the fact that the attitude toward progressive rates was steadily becoming more favorable.

The bill as reported by the conference committee and accepted by both houses made further changes, so the ten per cent rate was made to apply to all incomes of over $10,000.[5] The rate on dividends from stocks and interest on bonds of banks, trust companies, savings institutions, and of any stock or mutual fire, marine, life, inland insurance company was raised from three per cent to five per cent.[6] The same change was made in regard to the incomes of railroad companies. The principle of stoppage at the source was extended so that a five per cent tax was to be collected on the interest and dividends of any canal, turnpike, canal navigation or slack-water company.[7] The tax on the salaries of government officials was raised two per cent, so the paymasters were required to retain five per cent of all salaries in excess of $600 paid by them.[8] By the law of July 1, 1862, a higher rate had been placed on the income of American citizens residing abroad if the income was derived from property in the United States. This distinction

[1] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 2514, col. 3. Quoted from Say, *Political Economy*, vol. II, pp. 257–58. Translated from the fourth edition by C. P. Princep.

[2] *Ibid.*, p. 2515, col. 3.

[3] *Ibid.*, p. 2759, col. 3.

[4] *Ibid.*, p. 2760, col. 1.

[5] Act of June 30, 1864, 13 *U.S. Stat. at Large*, p. 281.

[6] *Ibid.*, p. 283.

[7] *Ibid.*, p. 284.

[8] *Ibid.*, p. 285.

was now done away with and the same rates made applicable to all. The holders of government securities were no longer a privileged class, but the same rates were made to apply to all incomes no matter what their source.

This act made some important changes besides the rates of the tax. The list of exemptions was extended somewhat. The Commissioner of Internal Revenues had recommended that the privilege of deducting house rent actually paid before estimating income should be discontinued.[1] The House of Representatives did not see fit to do this, but limited the amount of exemption for house rent to $200, and made it to apply to the man who lived in his own house as well as to the man who actually paid rent.[2] In the Senate, however, this restriction was removed, and the privilege of deducting house rent was further extended so that it applied to all persons and not only to those paying rent.[3] There were some people, both inside and outside of Congress, who agreed with the Commissioner on this point. In the New York "Tribune" we find this statement, "The idea of deducting house rent, in addition to the otherwise fixed exemption, is absurd as well as unequal and unjust."[4]

In issuing instructions for the assessment of the income tax in May, 1863, the Commissioner had decided that all "gains or profits realized from the sale of property during the year 1862, which property was purchased before the excise law went into effect, shall be returned as income for the year 1862."[5] The Finance Committee of the Senate came to the conclusion that this was not just, and the amendment[6] which was adopted provided that only the profits from the sale of real estate purchased within the year for which the income was estimated were to be taxed.

[1] *Finance Report* (1863), p. 70.
[2] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 1877, col. 3.
[3] *Ibid.*, p. 2517, col. 1.
[4] May 31, 1864, p. 4, col. 4.
[5] *U.S. Internal Revenue Decisions* (1871), p. 59.
[6] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 2516, col. 3.

When actual losses resulted from the sale of such property, however, their amount might be deducted from income.[1]

The question of how a farmer's income was to be estimated had given some trouble. A decision of the Commissioner had provided for the deduction of the subsistence of horses, mules, oxen, and cattle used in carrying on the work of the farm, and also provided that where a farmer had made returns of products raised by him and then fed to stock, he must account for the gain realized by the feeding and selling of said stock. If he had not included the products so fed, he must return, as profits, the difference between the value of the stock on December 31, 1861, and the amount realized by the sale of it.[2] In order to clear up this question, the law provided that a farmer's income was to include "the increased value of live stock, whether sold or on hand, and the amount of sugar, wool, butter, cheese, pork, beef, mutton, or other meats, hay and grain, or other vegetables or other productions of the estate of such person sold, not including any part thereof unsold or on hand during the year next preceding the thirty-first of December." [3]

The method of administering the tax was changed with the expectation that the law would be more effectively enforced. By the Act of 1862, every man having an income of over $600 was required to make a return of the same to the assistant assessor, but he was not required to declare it under oath — unless the assistant assessor increased it because he considered it understated. If the oath was taken, the return as originally made was to be accepted without further question.[4] By the new law every return was to be made under oath or affirmation; and in case a return was increased by the assistant assessor, the original return was to be accepted as true only when all deductions claimed were approved by the assistant assessor.

[1] 13 *U.S. Stat. at Large*, p. 281.
[2] *U.S. Internal Revenue Decisions* (1871), p. 60.
[3] 13 *U.S. Stat. at Large*, p. 282.
[4] 12 *U.S. Stat. at Large*, p. 475.

However, an appeal could be taken to the assessor of the district, whose decision was final.[1] By the former law, in case of neglect to pay the tax within thirty days after it was due, and for ten days after demand was made by the collector, a penalty of five per cent was added to the amount of the tax unpaid, except in the case of deceased or insolvent persons.[2] By the revised law this penalty was raised to ten per cent.[3] Before this law went into effect it was amended by the Act of March 3, 1865.[4]

Before the first session of the Thirty-eighth Congress adjourned, another income tax was imposed. On June 21, 1862, a joint resolution had been approved to pay a premium of two dollars to every citizen, noncommissioned officer, or soldier for such accepted recruits for the regular army as he should bring to the rendezvous. The resolution had also contained a promise that any soldier who enlisted for three years or during the time of the war would receive his first month's pay in advance.[5] Although the law passed in June, 1864, promised very large revenues, the Secretary of the Treasury was of the opinion that there would not be sufficient income to meet all demands, including these premiums and salaries. The House Committee on Ways and Means, therefore, proposed a joint resolution to levy a special income tax of five per cent on all incomes over $600 for the year ending December 31, 1863, to be collected on or before October 1, 1864.[6] To this some amendments were offered, the principal one being to increase the tax on spirits already produced.[7] They all failed of passage, however, and the original resolution passed both houses without change and received the approval of the President July 4.[8]

[1] 13 *U.S. Stat. at Large*, pp. 282–83.
[2] 12 *U.S. Stat. at Large*, p. 474.
[3] 13 *U.S. Stat. at Large*, p. 283.
[4] *Ibid.*, p. 479.
[5] 12 *U.S. Stat. at Large*, p. 620.
[6] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 3527, col. 3.
[7] *Ibid.*, p. 3529, col. 3, and p. 3540, col. 1.
[8] 13 *U.S. Stat. at Large*, p. 417.

When the Secretary of the Treasury made his annual report in December, 1864, the income tax was becoming really effective as a source of revenue. For the fiscal year ending June 30, 1863, only $2,741,858.25 in income taxes were paid, while in the following year the collections amounted to $20,294,731.74.[1] The Secretary asked Congress to consider whether the income tax should not be collected upon all, without exemption, since he thought the policy of exemptions opened the door to fraud.[2] Mr. Fessenden in the Senate, in May, 1864, in discussing the question of graduation, said, "For myself individually, my own opinion is not exceedingly well fixed on this point."[3] In the mean time he had been made Secretary of the Treasury, and now came out boldly for progression, with the opinion that it "cannot be considered oppressive or unjust, inasmuch as the ability to pay increases in much more than arithmetical proportion as the amount of income exceeds the limit of reasonable necessity."[4] Many other men in public life seem to have gone through a similar experience in their attitude toward progressive rates.

Internal Revenue Commissioner Lewis also made an important suggestion in his report, in 1864, with regard to the taxing of income derived from real estate. In estimating a farmer's income the value of products raised on the farm and consumed by the family were not included, while a man who purchased his food products was not permitted to deduct their value from his income. This the Commissioner considered an inequality which called for removal. Also it required "vexatious inquisition" to ascertain the income when it was derived from such a variety of sources as was usually the case on a farm. He suggested, therefore, as a better method of levying the

[1] *Ex. Doc. No. 4*, 2d Sess., 46th Cong., 1879–80, p. 167. For detailed sources of the tax see Table III (Appendix).

[2] *Finance Report* (1864), p. 15.

[3] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 2513, col. 1.

[4] *Finance Report* (1864), p. 15.

tax, that it be determined by the rental value of the real estate.[1] This suggestion, however, did not meet with the approval of Congress, and down to 1869 we find complaint that the income tax discriminated in favor of the farmer because he was not charged with what he consumed.[2]

As has already been said, the law of June 30, 1864, was amended before the time arrived when it was to go into effect. The House of Representatives passed a bill to abolish the seven and one half per cent rate and to tax at ten per cent all incomes over $3000.[3] In the Senate the bill was amended so that the ten per cent rate was made to apply to incomes in excess of $5000.[4] It was thought that "Every man would be content [with the tax], provided his neighbor paid his just proportion," but the fault found with the law was that many large incomes partially escaped.[5] To remedy this, even a declaration made under oath was not to be considered conclusive if the assistant assessor thought it an understatement, and he was given authority to increase any estimate. There was, however, the privilege of an appeal to the assessor, and from him to the Commissioner of Internal Revenues, if any person thought the action of the assistant assessor unjust.[6] For willful neglect or refusal to render a list a penalty of twenty-five per cent of the tax was to be added; and for rendering a false or fraudulent list the tax was to be doubled.[7]

Near the close of the war considerable discussion was raised over the question of publication of lists of incomes. Early in 1863 the Commissioner had issued instructions that the returns should be open for inspection only to the revenue officers. In the absence of any expressed legislative

[1] *Finance Report* (1864), p. 66.
[2] New York *Tribune*, December 10, 1869, p. 4, col. 5.
[3] *Cong. Globe*, 2d Sess., 38th Cong., 1864–65, p. 696, col. 2.
[4] Act of March 3, 1865, 13 *U.S. Stat. at Large*, p. 479.
[5] *Cong. Globe*, 2d Sess., 38th Cong., 1864–65, p. 696, col. 2.
[6] 13 *U.S. Stat. at Large*, p. 481.
[7] *Ibid.*, p. 480.

prohibition of publicity, the newspapers strongly urged that they be allowed to print returns of incomes. By a later ruling the Commissioner, in order that "the amplest opportunity may be given for the detection of any fraudulent returns that may have been made,"[1] gave the public free access to the returns.[2]

Opinion seemed to be quite divided as to the justification of publication. While at first it seemed to have aroused little objection from the public, as time went on the objections increased. On January 20, 1865, the New York "Tribune"[3] published a list of incomes, and the next day in an editorial said, "So long as an Income Tax shall be required and levied, we are satisfied that it is best for all who are honestly concerned therein that there should be no restriction on giving publicity to the items."[4] The New York "Times" said that in this way only could full returns be secured, and that in the years 1864 and 1865 it had meant millions of dollars to the Government.[5] Another reason advanced for publicity was that it prevented collusion between taxpayers and unfaithful collectors.[6] The "Commercial and Financial Chronicle" early took the stand that publicity was a bad thing. It said that it led to falsification of returns for ostentation and to secure credit,[7] for young business men who depended largely on credit might be unable to retain their standing if they gave truthful returns. As the demand for revenues declined and the income tax became more unpopular, the publicity feature aroused more objection. The New York "Times" said a properly organized revenue service would be able to guard against evasion and then publicity would

[1] Boutwell (1864), p. 259.

[2] Howe, p. 96, and Hill, in *Quarterly Journal of Economics*, vol. 8, p. 436 (July, 1894).

[3] Page 5, cols. 3–4.

[4] January 21, 1865, p. 4, col. 3.

[5] July 9, 1866, p. 4, col. 4–5.

[6] New York *Times*, August 7, 1869, p. 4, col. 2.

[7] Vol. 2, p. 162 (February 10, 1866).

be unnecessary and a nuisance which Congress might be asked to abate.[1] In a later issue it said, "The publicity given to the returns is offensive and objectionable."[2] When Mr. C. Delano was made Commissioner of Internal Revenues, he forbade the assessors, by a letter dated April 5, 1870, to furnish lists for publication[3] and Congress passed a law prohibiting the practice, on July 14, 1870.[4]

While the publicity feature may have prevented evasion in many cases, yet, without doubt, much of the opposition to the tax would never have been raised if it had not been felt that this was an unnecessary exposure of private affairs. It is very questionable whether the benefit received from publicity was not entirely offset by the injury it did, because of the antagonism to the tax which it aroused.

Another question which was discussed quite freely by the public press was the uniformity of rates, as applied to all incomes whether derived from labor or from invested capital. As early as 1862 we find this statement in the New York "Tribune": "We do not think it right to tax an income which is the fruit of present personal exertion as though it were derived from an inheritance or from invested capital."[5] The "Commercial and Financial Chronicle" said, "Our income tax offers the anomaly of demanding precisely the same amount from a lawyer, a merchant, an editor, a clergyman, a physician, or a bank clerk, who may earn an income of $5000 a year by his daily labor, as from a capitalist who sits in idleness and derives the same yearly income from sources which are subject to none of the precarious chances which may in a moment annihilate or curtail the income of the less fortunate but equally taxed professional and mercantile classes."[6] The New York "Times" did not begin to discuss this question

[1] July 26, 1869, p. 4, col. 3.
[2] August 7, 1869, p. 4, col. 2.
[3] 11 *I.R.R.*, p. 113.
[4] 16 *U.S. Stat. at Large*, p. 259.
[5] January 23, 1862, p. 4, col. 5.
[6] Vol. 2, p. 162 (February 10, 1866).

as soon as some other papers, but was more insistent in its demands. Beginning in 1867 and continuing through the first half of 1870, it very frequently printed editorials calling the public attention to the inequality of taxing all incomes at a uniform rate, without regard to their origin.[1] Congress, however, was not moved sufficiently by these complaints to take any action, so that as long as the tax was levied, the same rate was paid on wages as on interest and dividends.

With the close of the war in April, 1865, the demands on the Treasury began to decline. There was, however, an enormous public debt,[2] and it was necessary to pay interest on this debt and to provide a sinking fund to pay the principal when it fell due. Besides these, there were still many extraordinary demands[3] upon the Treasury, so that an immediate and radical reduction of the taxes was out of the question. When the Secretary of the Treasury made his report in December, 1865, his estimates showed a deficiency for the fiscal year ending June 30, 1866, of $112,194,947.20. He estimated the receipts for the nine months from October 1, 1865, to June 30, 1866, at $305,500,000 and the expenditures at $484,853,462.64.[4] But the actual receipts exceeded the estimates by $89,905,905.44; and the expenditures fell short of the estimates by $200,529,235.30.[5] By the 1st of April, 1866, when it became evident that the Secretary had underestimated receipts and overestimated expenditures, the House Ways and Means Committee introduced a bill to lower some of the internal taxes. They

[1] February 5, 1867, p. 4, col. 4; February 13, 1867, p. 4, col. 3; February 15, 1867, p. 4, col. 3; February 19, 1868, p. 4, col. 4; June 13, 1868, p. 4, col. 5; January 11, 1870, p. 4, col. 5; January 27, 1870, p. 4, col. 2; June 4, 1870, p. 6, col. 2.

[2] On October 31, 1865, the debt was $2,808,549,437.55. *Finance Report* (1865), p. 17.

[3] The estimate for the War Department for the year ending June 30, 1866, was $307,788,750.57, a sum much larger than under ordinary circumstances. *Ibid.* (1865), p. 20.

[4] *Ibid.* (1865), p. 20.

[5] *Ibid.* (1866), p. 1.

thought they would be justified in changing rates and removing taxes sufficient to cut down the federal income $75,000,000.[1]

The committee was desirous that part of this reduction should be made in the income tax. The Act of June 30, 1864,[2] had provided that this tax was to be levied until 1870, and while there was no thought now of repealing it, the committee was of the opinion that it might be changed so as to be less burdensome. Mr. Morrill, who had always been an opponent of the progressive feature of the tax,[3] in reporting the bill said: "In a republican form of government the true theory is to make no distinctions as to persons in the rates of taxation. Recognizing no class for special favors, we ought not to create a class for special burdens. Pursuing this principle a majority of the Committee on Ways and Means have agreed to that portion of the bill which makes the income tax after this year a uniform one of five per cent upon the annual gains." [4] Later on in the debate he said, "I think the [progressive] proposition cannot be justified upon any sound principle of morals. It can only be defended on the same ground that the highwayman defends his acts." [5]

The Ways and Means Committee did not command the support of the House on this question and in Committee of the Whole the bill was amended so as to leave unchanged the rates imposed in 1864. It seemed to the majority of the House that there were many small but burdensome taxes that fell upon the poorer classes which ought to be removed before this relief of lower rates on incomes was given to the wealthy class. Mr. Pike, of Maine, said: "If we retain the seventeen millions of tax [6] we may relieve

[1] *Cong. Globe*, 1st Sess., 39th Cong., 1865–66, p. 2435, col. 2.
[2] 13 *U.S. Stat. at Large*, p. 283. [3] *Supra*, p. 59.
[4] *Cong. Globe*, 1st Sess., 39th Cong., 1865–66, p. 2437, col. 3.
[5] *Ibid.*, p. 2783, col. 3.
[6] *Ibid.*, p. 2437, col. 3. This amount would be lost to the revenue by giving up the progressive principle.

many small and weak manufacturers of the country. Every laboring man in the country pays a tax upon what he eats, drinks, and wears. And until we come to the point of relieving the great body of people in the country from onerous taxes upon every day's consumption, it is a question whether or not the men who are able to pay should not pay this increased proportion of their income to the General Government."[1] There were proposals to increase the rates, even to the extent of twenty-five per cent upon all incomes in excess of $60,000,[2] but none of them was passed by the House.

Another change proposed in the bill, as originally presented, was to raise the amount of exemption from $600 to $1000.[3] This change had been recommended in January, 1866, in the report of the United States Revenue Commission.[4] The commission said that when the tax was first imposed, $600 exemption had been allowed because that amount "was deemed sufficient at that time to enable a small family to procure the bare necessities of life; but with the large increase in the cost of living there was not a corresponding advance in the receipts of those receiving but small incomes. As the purchasing power of six hundred dollars was fully equal at that time to one thousand dollars now, it would be, in the opinion of the commission, an act of justice, as well as of sound public policy, to extend the limit of the sum exempted."[5]

[1] *Cong. Globe*, 1st Sess., 39th Cong., 1865–66, p. 2783, col. 1.

[2] *Ibid.*, p. 2783, col. 2.

[3] *Ibid.*, p. 2437, col. 3.

[4] By the Act of March 3, 1865 (13 *U.S. Stat. at Large*, p. 487), the Secretary of the Treasury was authorized to appoint a commission of three persons for the purpose of studying our entire revenue system with the point in view of reforming our system, both as to the subjects of taxation and the methods of administration. The Secretary accordingly appointed David A. Wells, of New York, Stephen Colwell, of Pennsylvania, and Samuel S. Hayes, of Illinois, as commissioners. (*Ex. Doc. No. 34*, 1st Sess., 39th Cong., 1865–66, p. 2.) The commission was fully organized in June, 1865, and was constantly engaged in its labors until it made its report in January, 1866.

[5] *Ex. Doc. No. 34*, 1st Sess., 39th Cong., 1865–66, p. 27.

In the debates in the House the same line of argument was set forth by Mr. Hale, of New York.[1] The "Commercial and Financial Chronicle" opposed the increased exemption because it would exempt "a vast multitude of persons who ought to pay" the tax and also because it would materially curtail the amount of Treasury receipts.[2] There were in the House several men who stoutly opposed the change, but the amendment was passed in spite of their objections.[3] While this change was being debated, Mr. Nicholson, of Delaware, called attention to a portion of the law which he considered had worked an injustice ever since the income tax had been assessed. The exemptions allowed had never been made to apply to incomes received from interest or dividends of corporations, and this, he thought, affected the persons "who were least able to suffer such injustice." As a solution of the difficulty he proposed to amend the law so that when proper proof was furnished by any person who had not been allowed the exemptions from income from other sources, the collector was to be authorized to repay to that person such portion of his income as had been paid as taxes by the corporation.[4] The proposal, however, failed to get the support of the House.

Another important amendment offered was called forth by certain decisions and rulings of the Commissioner of Internal Revenues. As early as 1863 the Commissioner had decided that the value of property destroyed by fire could be deducted only when the property was used in business and was furnishing profits.[5] Later decisions[6] strengthened this first ruling. This appeared so unjust that Mr. Wilson, of Iowa, proposed that "Loss actually sustained during the year arising from fire, shipwreck, or

[1] *Cong. Globe*, 1st Sess., 39th Cong., 1865–66, p. 2785, col. 3.
[2] Vol. 2, p. 546 (May 5, 1866).
[3] *Cong. Globe*, 1st Sess., 39th Cong., 1865–66, p. 2786, col. 2.
[4] *Ibid.*, p. 2786, col. 3.
[5] *U.S. Internal Revenue Decisions* (1871), p. 60. [6] 2 *I.R.R.*, p. 36.

incurred in trade, or debts ascertained to be worthless," be deducted when estimating the income. This was adopted without debate, or division of the House.[1]

When the Finance Committee reported the House bill to the Senate, Mr. Fessenden said that they proposed to drop out most of that portion referring to the income tax. Their reasons for doing so were: (1) it was late in the session;[2] (2) there were many other changes made by the House bill which it would take considerable time to discuss; and (3) the proposed changes could not go into effect until after the next session of Congress, as the income tax had already been assessed for that year.[3] These reasons seemed sufficient to the Senate, and the House concurring in the opinion, the income tax was not changed except in some minor details. The most important of these changes were, first, that the tax was made to apply to the "income of every business, trade, or profession carried on in the United States by persons residing without the United States, not citizens thereof."[4] The previous laws had made the tax to apply only to citizens of the United States residing abroad and to persons residing within the United States. Second, by the previous laws, the ten per cent rate on incomes above $5000 had not applied to salaries of officers of the Federal Government, which were now to be taxed at the same rate as income from other sources.[5]

At the opening of the next session of Congress the Commissioner of Internal Revenues commended the changes in the law that had been proposed by the House Ways and Means Committee at the last session, recommending especially that the amount of exemption be raised from $600 to $1000, and giving the same reason for the change that had been given by the Special Revenue Commission-

[1] *Cong. Globe*, 1st Sess., 39th Cong., 1865–66, p. 2787, col. 1–2.

[2] It was on June 21 that the bill was taken up for debate in the Senate.

[3] *Cong. Globe*, 1st Sess., 39th Cong., 1865–66, p. 3321, col. 2.

[4] 14 *U.S. Stat. at Large*, p. 138.

[5] *Ibid.*, p. 139.

ers.[1] The Commissioner also recommended the amendment of the provisions of the Act of June 30, 1864, which required that the income from the sale of real estate should be subject to taxation only when sold within a year of the time of purchase.[2] He said that the rule was an arbitrary one and was not made to apply to personal property and he saw little reason for its existence at all.[3]

The Ways and Means Committee again offered propositions for amendments which were substantially the same as those presented the year before.[4] Several amendments were offered for retaining progressive rates, but the sentiment of the House seemed to be even more strongly against that principle now than it had been for it the previous year.[5] This change of attitude was probably due to the fact that the demands for revenue were declining, although the arguments offered both in support of and in opposition to the principle were in substance the same that had been debated time and again in both houses of Congress. This time the Senate did not oppose the changes made by the House, so a uniform rate of five per cent was levied on all incomes in excess of $1000.[6]

By a decision of the Commissioner of Internal Revenues, if the gold which had been received as interest on United States securities was sold, the premium was subject to the income tax.[7] In the amended law the amount of all premium on gold from whatever source was included in income. The ascertaining of the income of farmers was made more simple. By the law of 1864, in making his returns a

[1] *Supra*, p. 71.

[2] *Supra*, p. 62.

[3] *Finance Report* (1866), p. 64.

[4] *Cong. Globe*, 2d Sess., 39th Cong., 1866–67, p. 1218, col. 1; *supra*, pp. 70–71.

[5] The vote for retaining the progressive rates in the Committee of the Whole in the 1st Session of the 39th Congress was 57 to 42. (*Cong. Globe*, p. 2786, col. 2.) The vote against the progressive rate in the 2d Session was 73 to 26. (*Cong. Globe*, p. 1483, col. 1.)

[6] Act of March 2, 1867, 14 *U.S. Stat. at Large*, p. 478.

[7] 2 *I.R.R.*, p. 5.

farmer was to include "all income . . . from the increased value of live stock, whether sold or unsold."[1] By the new law he was required to report only "the amount of sales of live stock."[2] The Commissioner's suggestion with regard to income from sale of real estate was not heeded, but instead of the law being made to apply only to property purchased within the year, it was extended so as to apply to all sales of real estate purchased within two years previous to the year for which the income was estimated.[3]

A few changes were made in the administration of the law. The penalty for refusing to make a return was raised from twenty-five to fifty per cent of the tax due. For failure to pay the tax when due, the penalty was lowered from ten per cent to five per cent of the tax due. The date for assessment was changed from May 1 to March 1. The last day for payment was moved from June 30 to April 30.[4]

By the Act of July 13, 1866, the Secretary of the Treasury was authorized to appoint an officer in his department, to be known as the Special Commissioner of Revenues, who was to hold office for four years.[5] On July 16, the Secretary appointed Mr. David A. Wells to this position.[6] In his second annual report submitted to Congress in January, 1868, Mr. Wells made some important recommendations with regard to the income tax. His first proposal was in opposition to the exemption of $1000 from all incomes. Doubtless the allowing of any exemption was founded on English precedent. In England at that period incomes of less than £100 were entirely exempt; an abatement of £60 was allowed to incomes over £100 and less than £200; but no deduction was allowed where the income was in excess of £200. The Special Commissioner recommended that the law should be amended so that the

[1] *Supra*, p. 62.
[2] 14 *U.S. Stat. at Large*, p. 478.
[3] 14 *U.S. Stat. at Large*, p. 478.
[4] *Ibid.*, p. 479–80.
[5] *Ibid.*, p. 170.
[6] *Finance Report* (1866), p. 18.

exemption would apply only to incomes which were not in excess of $1500 or $2000.

His other proposal was with regard to rents. He said: "There would seem, therefore, no good reason, when a sufficient and proper sum is exempted in the first instance from an income tax, why this exemption should be further increased by the addition of rentals or rental values; and, in any event, it seems right that if an individual chooses to employ his wealth by occupying tenements and ornamental lands, whose rental value is the representative of large property, all such rental, in excess of a certain amount, should be considered as a luxury, and taxed accordingly."[1] Congress made no changes in the law relating to the income tax, for interest seemed to center, principally, in the rates on manufactured articles and on liquor and tobacco. It was late in the session when these revisions were made, and then many members of Congress, having secured the changes they desired, had little further interest in the bill.

Although the Special Commissioner's recommendations of 1868 were for more stringent legislation with regard to the income tax, yet the tax had always been looked upon as of a temporary character. The law of August 5, 1861, made no mention of the length of time the tax was to continue in operation,[2] but there were no taxes collected under this act.[3] The Act of July 1, 1862, provided that the tax on incomes was to be collected until June 30, 1866, and no longer.[4] However, when this act was amended by the Act of June 30, 1864, the time for which the tax was to be collected was extended to June 30, 1870.[5] The Act of July 13, 1866, again contained this provision,[6] but when it was amended by the Act of March 2, 1867, the time set

[1] *Report of the Special Commissioner of Revenues* (1867), pp. 38–39.
[2] 12 *U.S. Stat. at Large*, pp. 309–11.
[3] *Supra*, p. 53.
[4] 12 *U.S. Stat. at Large*, p. 474.
[5] 13 *U.S. Stat. at Large*, p. 283.
[6] 14 *U.S. Stat. at Large*, p. 138.

for the last collection was moved backward two months, namely, to April 30, 1870.[1] In his report in 1869, Commissioner Delano called the attention of Congress to the fact that the tax would expire by limitation in 1870. He expressed it as his opinion "that, so long as a large internal revenue is required by the financial necessities of the government, a portion of that revenue should be collected from incomes."[2]

In his fourth annual report in 1869, Special Commissioner Wells also recommended that the tax be retained. However, he thought the rate should be lowered from five per cent to three per cent and that a limit should be put upon the amount allowed for house rent, for instance, $200. Then he thought the yield to the Treasury would be very nearly as much as under the higher rate, because people would be more truthful in making their returns. He did not think that the majority of people of the country were interested in having the tax removed. In 1868 not over 250,000 persons out of the entire population had paid the tax. Allowing for the families of those who had paid the tax, out of a total population of 39,500,000 about 38,500,000 were interested in having the tax maintained.[3]

It is rather difficult to determine just what was the popular feeling with regard to the income tax. Early in its history, it had apparently been accepted without opposition; but that was during the active hostilities of the Civil War, and the patriotism of the people caused them to submit to many things in the way of taxes, to which they doubtless would have objected under ordinary circumstances. When the war was over and patriotic feelings were not so much aroused, opposition was much more likely to appear. When there seemed to be a possibility of retaining the tax

[1] 14 *U.S. Stat. at Large*, p. 480.

[2] *Finance Report* (1869), p. 14.

[3] *Report of Special Commissioner of Revenues* (1870), pp. 76–77. (Edition printed by the Cobden Club.)

after the time set for it to expire, the newspapers began to discuss the subject, some opposing and some supporting the retention of the tax. In fact they were not consistent in the stand they took, for at one time they would argue for the retention and in a later issue oppose it, or *vice versa*.[1] There were two papers, generally considered to be conservative, which thought the popular opposition to the tax was not great. The "Nation" expressed the opinion that the opposition was largely political when it said, "Not that popular feeling is opposed to the tax, but that it is rapidly becoming an object of determined hostility to a large number of politicians." Later, in the same article, it said, "We hear no complaint of it from anybody, except

[1] The New York *Tribune* took a decided stand against the tax and said in the issue of February 5, 1869: "The Income Tax is the most odious, vexatious, inquisitorial, and unequal of all our taxes." It "is a tax on honesty, and just the reverse of Protective. It tends to tax the quality out of existence" (p. 4, col. 5). On December 10, 1869, "We do not believe there is a tax levied by the Government so onerous upon so large a class of people as the Income Tax" (p. 4, col. 5). And again on June 1, 1870, "If members of Congress do not know that the most offensive tax upon the list is that levied upon Incomes, they may easily learn that fact by inquiry of their constituents" (p. 4, col. 3).

The New York *Times*, on November 10, 1869, said that it hoped the effort to have the tax repealed would not succeed (p. 4, cols. 2–3). On April 9, 1870, it expressed the opinion that at first the tax was submitted to as a necessary expedient, but that of recent years it had become exceedingly unpopular. The objection to it was mainly because it was unwisely administered and not on principle (p. 4, col. 5). On April 26 of the same year it again stated that popular sentiment was much opposed to the income tax. But the sentiment of the paper did not agree with popular sentiment, for, to quote the conclusion of the article, "We hold that a moderate and a properly collected income tax will be the most satisfactory and just of any that can be devised, and we hope the House of Representatives will firmly resist the effort of the Senate to keep it at the present figure, chiefly for the reason that we think such a course is calculated to make the tax odious and ultimately to cause its absolute repeal" (p. 4, col. 3). However, within a year this paper had changed its attitude. In the issue of January 19, 1871, is found, "The income tax has been unpopular from the moment of its enactment"; and the further statement, "Let Congress redeem the session from utter barrenness by averting the vexation and unpopularity which will inevitably arise from the continued infliction of the impost [i.e., income tax]" (p. 4, cols. 2–3).

from the advocates of some other mode of raising the same amount of money. . . . In fact, we do not know where to look either for any real sign of special popular hostility to it, or for any special reason for popular hostility to it." [1] The "Commercial and Financial Chronicle" expressed the opinion that the tax as collected was unjust and oppressive, but that Congress could and should amend the law so as to make it operate more justly, and then the most serious objections to the tax would be removed.[2]

The objections urged against the tax may be summarized under the following three heads: (1) It was unjust because no distinction was made between funded and unfunded incomes. (2) It fostered fraud and evasion because the high rates led to attempts to escape the tax. (3) It was inquisitorial, for the officers pried into affairs which men prefer to keep secret and then gave out to the public the information they obtained. The general feeling, however, seemed to be that it was possible to revise the law in a way that would eliminate these objections and then the tax would not meet with much opposition.

In the early months of 1870 it was thought that a reduction of the revenues to the extent of $33,000,000 [3] was advisable, and in the House the Ways and Means Committee introduced a bill reducing some and entirely removing others of the internal taxes. With regard to the income tax, they proposed to leave the rate at five per cent, but to increase the amount of exemption to $1500 and by this change thought to reduce the revenue about $5,750,000.[4] This brought forth the question whether it was not the duty of the Government to keep its promise by discontinuing the income tax. Certain members of Congress thought the revenues could stand a much larger reduction than had

[1] *The Nation*, vol. 9, p. 452 (November 25, 1869).
[2] Vol. 10, pp. 485–87 (April 16, 1870).
[3] *Cong. Globe*, 2d Sess., 41st Cong., 1869–70, p. 3496, col. 1.
[4] *Ibid.*, p. 3495, col. 3.

been suggested by the committee, and that all other reductions proposed could be made and then the entire income tax be dropped.[1] The most vigorous opponents of the tax were Mr. McCarthy, of New York; Mr. Butler, of Massachusetts; and Mr. W. D. Kelley, of Pennsylvania. Mr. Butler did not oppose the income tax in general, but his objection was to taxing incomes from labor. He wanted a tax of five per cent put on the income from invested capital.[2] Mr. Kelley's attitude was doubtless typical of that of many members of Congress. While he had been a free trader in his earlier life, he had become an ardent protectionist. When, therefore, the revenues became excessive, he favored reducing or repealing, not only the income tax, but also many others of the internal taxes, so as to retain the protective tariff.

Most of the speeches in the House favored the retaining of the tax. Mr. Blair, of Michigan, contended that the Treasury could not stand so great a reduction of its income as would be made by removing the income tax, and that "every dollar which we take off this income tax, which applies to the rich men of the country, must be laid upon the poorer men of the country."[3] Mr. Townsend, of Pennsylvania, said: "The clamor in favor of the abolition of the income tax is a local and a manufactured cry. It does not come from the masses of the people. It originated in the great cities, among the men of gigantic capital, among the railroad monopolists, brokers and dealers in stocks, wholesale importers, mostly foreigners, and men of colossal fortunes and extraordinary incomes. It was started by papers in their interest, and is mostly confined to those places and persons. It has not spread to the country, and

[1] Mr. McCarthy thought the revenues could be reduced $70,000,000 (*Cong. Globe*, 2d Sess., 41st Cong., 1869–70, p. 3993, col. 1), and Mr. Kelley thought that $100,000,000 could be spared (*ibid.*, p. 3994, col. 3). Mr. Wilson, of Minnesota, thought $75,000,000 reduction could be made (*ibid.*, p. 4023, col. 2).

[2] *Ibid.*, p. 3995, col. 2.

[3] *Ibid.*, p. 3994, col. 1.

the country papers and country people do not demand the abolition of the tax."[1] Much time was consumed by debate in the House, but in most cases the same arguments were repeated that had been offered in previous discussions. In time a bill was passed in the House to retain the tax, but the rate was lowered to three per cent and the amount of exemption increased to $2000.[2]

When the House bill was taken up in the Senate, it met with more opposition. The Senators did not even wait until the sections on income came up for discussion in their regular order, but began their objections to them almost from the very beginning of the debate on the internal tax bill, when Senator Sumner said, "Sir, the income tax must go. It must not be continued. It has already lived too long for the good of the country. . . . This whole bill should be modeled, therefore, on that prevailing idea, that the income tax is to go."[3] Many others argued against it, saying that it was "odious," "inquisitorial," "led to fraud." Senator Thurman even attacked it on the ground that the tax was shifted so that the poor men really had to pay it.[4]

Among the most able supporters of the tax was Senator Sherman, of Ohio. He contended that the necessities of the Government were such that no more taxes could be spared. The bill as passed by the House and reported to the Senate proposed a reduction of about $77,000,000, and, he said, that in doing this they had "gone to the extreme tether."[5] He thought that a mistake had been made by the House in increasing the exemption to $2000 and favored restoring it to $1000. The only reason for an exemption at all was to allow enough to support a family in ordinary circumstances, and this he thought was met by former laws.[6]

[1] *Cong. Globe*, 2d Sess., 41st Cong., 1869–70, p. 4023, col. 3.
[2] *Ibid.*, pp. 4063–64.
[3] *Ibid.*, p. 4709, col. 2.
[4] *Ibid.*, p. 4757, col. 3.
[5] *Ibid.*, p. 4715, col. 1.
[6] *Ibid.*, p. 4714, col. 1.

When the income tax sections of the bill were taken up for detailed discussion in the Senate, they met with peculiar treatment. In the Committee of the Whole, Mr. Conkling, of New York, moved to amend by striking out the sections referring to income taxes;[1] and the amendment was agreed to by a vote of 34 to 23.[2] Senator Sherman said that, since they had voted to remove the income tax, some other taxes must be restored or there would be a deficit. The loss of the income tax would make a reduction of $17,000,000 in the federal income, and the bill as reported to the Senate by the Finance Committee would make a reduction of $74,000,000, making a total of $91,000,000. The most that the Secretary of the Treasury had estimated that it would be possible to spare was $77,000,000, but striking out the income and other taxes would leave a deficit of about $15,000,000 in the Treasury at the end of the next year.[3]

In order to change the bill so as to prevent this deficit, the Finance Committee asked that further discussion of it should be postponed until they had had opportunity to revise it. Acting on the supposition that the Senate's action was final in rejecting the income tax, the committee proposed to restore the duty on sugar and the tax on gross receipts,[4] both of which the House bill had removed. At first the Senate would not agree to strike out the House provision removing the duty from sugar.[5] The next day, however, on a motion to reconsider,[6] by the close vote of 27 to 26, the duty on sugar was restored.[7]

These votes had all been taken in the Committee of the Whole. Later, before the vote was taken in the ordinary session, some Senators who had voted against the tax saw the need of retaining it and indicated that they might

[1] *Cong. Globe*, 2d Sess., 41st Cong., 1869–70, p. 4713, col. 3.
[2] *Ibid.*, p. 4808, col. 1.
[3] *Ibid.*, p. 4810, col. 3.
[4] *Ibid.*, p. 4886, col. 2.
[5] *Ibid.*, p. 4896, col. 3.
[6] *Ibid.*, p. 4924, col. 2.
[7] *Ibid.*, p. 4925, col. 1.

change their votes. Three proposals were made for retaining some kind of income tax and all were voted down. Senator Warner, of Alabama, moved to continue the tax, but to make it apply only to incomes from capital.[1] Senator Thurman, of Ohio, proposed that a tax of five per cent be put on the interest from United States bonds held by persons residing in the United States or citizens residing abroad.[2] Senator Wilson, of Massachusetts, however, moved to retain the regular income tax as provided by the House bill, except that it should be limited in its operation to the years 1871 and 1872 and at the rate of two and one half per cent.[3] This motion was lost by a vote of 23 to 28.[4] A vote was then taken on a motion to concur in the action of the Committee of the Whole in striking out the income tax, which was passed by 26 to 22.[5] Then Mr. Sherman moved to restore the tax on gross receipts,[6] but he said: "I make this motion with extreme regret. I do not believe there are many taxes in the tax list that are worse than the tax on gross receipts. . . . But we cannot repeal all the taxes proposed to be repealed."[7] This motion was lost by a tie vote of 25 to 25.[8]

The failure of this motion to pass seemed to turn the tide in favor of the income tax. Some Senators, as Edmunds, Anthony, and Nye, although favoring the gross receipts tax, were willing to vote for the income tax when the former was voted down.[9] A motion was now made to reconsider the vote "throwing out the continuance of the income tax."[10] This was carried by a vote of 26 to 25.[11]

[1] *Cong. Globe*, 2d Sess., 41st Cong., 1869–70, p. 5082, col. 2.
[2] *Ibid.*, p. 5081, col. 3.
[3] *Ibid.*, p. 5085, col. 1.
[4] *Ibid.*, p. 5087, col. 2.
[5] *Ibid.*, p. 5088, col. 1.
[6] *Ibid.*, p. 5090, col. 3.
[7] *Ibid.*, p. 5091, col. 1.
[8] *Ibid.*, p. 5092, col. 1.
[9] *Ibid.*, pp. 5095–96. In the first vote Edmunds and Nye were absent and Anthony voted against the tax. In the second vote, Nye was absent and the other two voted against it. In the third vote Nye was again absent and the other two voted for it.
[10] *Ibid.*, p. 5095, col. 2.
[11] *Ibid.*, p. 5098, col. 3.

Mr. Wilson now renewed his motion to limit the tax to two years at the rate of two and one half per cent,[1] and it was agreed to by a vote of 27 to 21.[2] This made the third vote on the tax.

The opponents of the tax were not satisfied to let the matter rest with this last vote, and by a peculiar method came very near accomplishing their desire. Mr. Conkling, of New York, who in this fight had been one of the leaders of the opponents, moved to amend section 35, which was the first section relating to the income tax, by the following proviso: "*Provided*, That no such tax shall be levied or collected until by Act of Congress it shall be hereafter so directed."[3] Objection was made that this was not in order, since it proposed that the Senate should reverse its own decision. If the Senate did not wish to stand by its former decision, the proper method to change it was through a motion to reconsider.[4] Mr. Edmunds moved to amend Mr. Conkling's amendment by inserting: "And all provisions of law providing for the assessment and collection of taxes on gross receipts are hereby continued until the further action of Congress."[5] Both of these amendments were lost, the latter by a vote of 18 to 33 and the former by a tie of 26 to 26, making the fourth vote on the tax.[6] The tax had been saved, but as a source of revenue its effectiveness had been greatly limited, for in conference the House agreed to the Senate amendments. These amendments made a rate of two and one half per cent for two years on all incomes in excess of $2000.[7]

As these votes show, the sentiment with regard to the income tax was very evenly divided. It seems that a majority of the people of the country, and also of the members of Congress, were not really in favor of the income

[1] *Cong. Globe*, 2d Sess., 41st Cong., 1869–70, p. 5098, col. 3.
[2] *Ibid.*, p. 5099, col. 3.
[3] *Ibid.*, p. 5232, col. 2.
[4] *Ibid.*, p. 5232, col. 3.
[5] *Ibid.*, p. 5234, col. 2.
[6] *Ibid.*, p. 5237, col. 1.
[7] Act of July 14, 1870, 16 *U.S. Stat. at Large*, p. 257.

tax. At one time the feelings of patriotism had kept down opposition, but that time was past. Some, however, who did not like the tax thought it better to retain it until the demands on the revenue were not so great. Others thought that more revenue could be dispensed with, or that other taxes were preferable to the direct income tax, and so were in favor of dropping it. There were so many things influencing the votes of the members of Congress that it is impossible to say what really caused the tax to be retained and at the same time caused the rate to be reduced to two and one half per cent.

This law also made some changes in the administration of the tax, with the object of making it less objectionable. As has been said before,[1] the publication of returns was prohibited by this law. Other changes were: (1) returns were no longer to be required from any one unless he had at least $2000 income; (2) when the assistant assessor thought that an income had been understated, he could increase it only after having given notice to the party making the return; (3) in case of refusal or neglect to make returns and in case of fraudulent returns, the penalties provided for could be applied only after reasonable notice of a time and place where the person accused could be heard.[2]

The provision of the law that the tax was to be extended to the years 1870 and 1871 applied only to the income tax proper. The taxes which were collected by "stoppage at the source"[3] were left in a peculiar condition. The law under which the first income tax was collected, that of July 1, 1862, went into effect on the 1st of August of that year. This income tax was not collected until June, 1863,

[1] *Supra*, p. 68.

[2] 16 *U.S. Stat. at Large*, p. 259.

[3] The taxes collected in this way were from salaries of civil, military, and naval officers of the United States, income from interest and dividends of banks, trust companies, and savings institutions, and of fire, marine, life, inland, stock, and mutual insurance companies, of railroad, canal, turnpike, canal navigation, and slack-water companies.

but it was levied on the income of the whole year 1862.[1] The taxes which were stopped at the source, however, were paid when the interest, dividends,[2] or salaries[3] became due, so there was no tax collected on them before July 1, or August 1, 1862.[4] During the discussions in Congress in 1870, attention was called to the fact that the law of March 2, 1869, did not make it clear when these taxes were to expire; therefore, it was urged that, in order to put all taxpayers on the same footing, the law should be declared to mean that while the income tax proper was to be collected only on the income for the year ending December 1, 1869, the tax on salaries, interest, and dividends should be collected until August 1, 1870.[5] A clause was therefore inserted in the law providing for that interpretation.[6]

When it was finally voted to retain the tax for two more years, this difference was overlooked, and the tax on salaries, interest, and dividends was provided for the year 1871, at the rate of two and one half per cent.[7] The result of this was that while the income tax proper was assessed at two and one half per cent for the years 1870 and 1871, the tax on salaries, interest, and dividends was five per cent from January 1 to August 1, 1870; then from August 1 to December 31, 1870, there was no tax collected, and for the year 1871 the rate was two and one half per cent.

After this struggle no attempt was made by the friends of the tax to have the time of its operation extended. Its enemies, however, tried to have it repealed before the time set for it to expire. In the House several bills[8] were presented with this object in view. None of these, however,

[1] 12 *U.S. Stat. at Large*, p. 474. [2] *Ibid.*, pp. 468 and 470.
[3] *Ibid.*, p. 472.
[4] The tax on interest and dividends was collected after July 1, while that on salaries was not collected until after August 1.
[5] *Cong. Globe*, 2d Sess., 41st Cong., 1869–70, pp. 5089–90.
[6] 16 *U.S. Stat. at Large*, p. 261. [7] *Ibid.*, p. 260.
[8] *Cong. Globe*, 3d Sess., 41st Cong., 1870–71, p. 20, col. 2; p. 64, cols. 1 and 2; p. 1037, col. 3.

came to a direct vote. The treatment which the bill of the Ways and Means Committee received shows the attitude of the House. Mr. Hooper, of the committee, moved that the rules be suspended so that a bill for the repeal of the tax might be passed, and it was lost by a vote of 91 to 117.[1] As such a large majority showed their opposition to the repeal of the tax, Mr. Hooper said he would not ask that the House go into a Committee of the Whole for the discussion of the bill, and it was dropped without further consideration.

In the Senate a bill was also introduced,[2] discussed at length,[3] and passed by a vote of 26 to 25.[4] When sent to the House that body returned the bill with the suggestion that, under the Constitution, such bills should originate with the House;[5] and as it refused to yield this point, the bill was not passed. The tax, therefore, ceased by limitation in 1872. During the discussion of this bill, Mr. Sherman was again the earnest advocate of the tax.[6]

Mr. J. A. Hill says that sectional interests had a great

[1] *Cong. Globe*, 3d Sess., 41st Cong., 1870–71, p. 1851, col. 2. Professor Seligman says that the repeal of the tax was defeated by the close vote of 105 to 104 (*The Income Tax*, p. 467). It does not seem that he is justified in saying this is a vote on the income tax. Mr. Hooper had moved that the House go into a Committee of the Whole, to proceed to the consideration of the general calendar, with the view of taking up the bill for repeal of the income tax; and pending this motion, he moved that all general debate cease in one minute after the House resolved itself into a Committee of the Whole. Now, Mr. Washburn wanted to know if the naval appropriation bill would not be the first business considered if the House went into committee. The Speaker replied it would not be unless so ordered by the committee. The vote was then taken on limiting debate to one minute and stood 109 to 86 in favor of the motion. Then the motion to go into Committee of the Whole was put and the vote was 105 to 104 against going into committee. As the calendar would have to be taken up and gone through with *seriatim*, unless the House ordered otherwise, this vote does not necessarily show the feeling toward the income tax. (*Cong. Globe*, 3d Sess., 41st Cong., 1870–71, pp. 1086–87.)

[2] *Ibid.*, p. 18, col. 2.

[3] *Ibid.*, pp. 720–22 and 745–55.

[4] *Ibid.*, p. 755, col. 2.

[5] *Ibid.*, p. 791, col. 2.

[6] Mr. Sherman's speech for the tax, in this as well as in the previous sessions, is found in his *Selected Speeches*, pp. 284–307, and 317–36.

influence in the votes on this tax. "The States of California, Connecticut, Massachusetts, New York, New Jersey, Maryland, Pennsylvania, and Rhode Island, which, taken together, contributed about 70 per cent of the total income tax, cast 61 votes against the tax, and only 14 in favor of it. The States of Alabama, Arkansas, Indiana, Iowa, Michigan, Nebraska, Mississippi, Missouri, New Hampshire, North Carolina, Tennessee, Texas, Virginia, West Virginia and Wisconsin, which together contributed less than 11 per cent of the tax, cast 69 votes in favor of the tax, and only 5 against it."[1]

The struggle over the repeal of the tax was long and bitter, but it doubtless would have been repealed without much of a struggle within a few years. From its very nature such a tax must be inquisitorial, and although some changes were, and others might perhaps have been, made to remedy this evil, yet it could never be entirely removed. It could not be expected that a people, who had practically never felt directly the influence of the Federal Government in taxation before the Civil War began, would be willing to retain such a tax any longer than there was real need for it. Just at the close of the war, when the people were rejoicing over peace being secured, large amounts of money were paid under this tax and apparently without much objection. But as the public debt began to be reduced, and as the causes of the debt sank farther into the past, the tax was sure to be felt more, and to be considered more grievous; and not being moved so much by the feeling of patriotism, many men would try with more or less success to evade it. Then the demand would arise from all sides to have it removed, and if the revenue would not stand a reduction, to make good the loss through less direct means. Without doubt the protective tariff also had much to do with the repeal of the income tax. When the

[1] "The Civil War Income Tax," in *Quarterly Journal of Economics*, vol. VIII, pp. 442–43 (July, 1894).

federal revenues became greater than the expenditures, so that there was a surplus in the Treasury, in order to maintain high protection the opponents of free trade were willing to vote against the income tax rather than lose the protection furnished by the tariff.

In the administration of the law many decisions by the Internal Revenue Commissioners were necessary, some of which have already been considered.[1] However, there were some others which were so essential to the proper working of the law that they should be mentioned. The decisions may be grouped under the four heads, (1) what should be included as income; (2) what deductions should be allowed; (3) what interpretation should be put on exemptions; and (4) whether the Federal Government could tax the salaries of state officers. On the first question the Commissioner decided that gifts of personal property made for the purpose of evading the legacy tax were subject to income tax;[2] all "advances" of personal property to children were included as income;[3] the payment of legacy or succession tax on the bequest of an annuity did not relieve the annuitant from liability to income tax on his annuity;[4] all old debts which were formerly considered hopeless, but were paid within the income year were taxable;[5] if a person died before the close of the income year, the income received by him during that portion of the year he was in life was taxable.[6]

With regard to the second question, it was decided that premiums paid on life insurance and on fire insurance, except as an expense of business, were not to be deducted;[7] no so-called loss incurred by a gift of property could be deducted;[8] no deduction could be made for money paid on a judgment of any court in an action of tort;[9] no deduction

[1] *Supra*, pp. 56–58.
[2] 3 *I.R.R.*, p. 133.
[3] 3 *I.R.R.*, p. 140.
[4] 7 *I.R.R.*, p. 60.
[5] Boutwell (1863), p. 274.
[6] 7 *I.R.R.*, p. 193.
[7] Boutwell (1863), p. 274; 5 *I.R.R.*, pp. 115, 130; 7 *I.R.R.*, p. 59.
[8] 7 *I.R.R.*, p. 59.
[9] 1 *I.R.R.*, p. 155.

could be allowed for depreciation in value of stocks or other property until they were actually disposed of and the loss realized;[1] money received as damages in actions of tort was to be deducted,[2] as was also all money paid on policies by life insurance companies.[3]

Under the third question, a husband and wife were regarded as members of the same family, although living separate, unless separated by divorce.[4] A family composed of the mother and her minor children were entitled to only one deduction, and the guardian of the minor children was entitled to deduct a ratable portion of the same from the income of his ward;[5] if husband and wife had separate incomes, only one exemption was permitted;[6] an association so formed that its gains were the property of the whole association, and not divisible among the members, was entitled to only one exemption.[7]

The last question was the subject of considerable controversy. The Commissioners decided that it was not in their province to decide upon the constitutionality of an act of Congress, and until the judiciary of the United States decided otherwise, the salaries of state officers were liable to the income tax.[8] In 1870, in the case of Day *v.* Buffington, in the United States Circuit Court, District of Massachusetts, it was held that the salary of a judge of a state court was not taxable by the United States.[9] On appeal in error to the Supreme Court of the United States, it was held that "the reserved rights of the States, such as . . . to employ all necessary agencies for legitimate purposes of State government, are not proper subjects of the taxing power of Congress";[10] and the decision of the lower court was sustained.

[1] 3 *I.R.R.*, p. 109; 7 *I.R.R.*, p. 59.
[2] 1 *I.R.R.*, p. 155.
[3] 3 *I.R.R.*, p. 140.
[4] 7 *I.R.R.*, p. 59.
[5] 11 *I.R.R.*, p. 89.
[6] 1 *I.R.R.*, p. 188.
[7] 10 *I.R.R.*, p. 39.
[8] 4 *I.R.R.*, p. 4.
[9] 11 *I.R.R.*, p. 205; same case, 3 *Cliff.*, p. 376.
[10] 11 *Wall.*, p. 128.

The constitutionality of the tax was not questioned at first.[1] In the debate in the House in 1870, Mr. Davis, of New York, suggested that the tax was of doubtful constitutionality as being a direct tax.[2] The "Internal Revenue Record" on June 18, 1870, copied an article from the Boston "Courier" in which the constitutionality was attacked.[3] However, the United States Supreme Court held in two cases — Pacific Insurance Company *v.* Soule[4] and Veazie Bank *v.* Fenno[5] — that the income tax was not a direct tax. Chief Justice Chase, in delivering the opinion in the latter case, said "that the words direct taxes, as used in the Constitution, comprehended only capitation taxes, and taxes on land, and perhaps taxes on personal property by general valuation and assessment of the various descriptions possessed within the several States."[6] These two decisions applied to income tax assessed on the dividends and interest paid by insurance companies and banks, but at a later date[7] Judge Strong, of the United States Circuit Court, Eastern District of Pennsylvania, rendered a decision, affirming the constitutionality of the income tax, and declaring that it was not a "capitation or other direct tax" in the sense in which the framers of the Constitution understood such taxes.[8]

Statistics with regard to the assessment of the income tax are quite meager, but the reports of the Commissioners of Internal Revenues give quite full reports of the taxes collected, even to the extent of stating the amounts collected in each State and collection district. Not until 1866 do we have a report of the number of persons who paid the income tax. Some things about the returns, however, are

[1] Cf. Seligman, *The Income Tax*, part II, chapter V.

[2] *Cong. Globe*, 2d Sess., 41st Cong., 1869–70, p. 4031, col. 3.

[3] 11 *I.R.R.*, p. 194.

[4] 7 *Wall.*, p. 433.

[5] 8 *Wall.*, p. 533.

[6] 8 *Wall.*, p. 546.

[7] The two decisions were rendered in 1868 and 1869. Judge Strong gave his opinion in 1871.

[8] 14 *I.R.R.*, p. 1.

worth noting. The first year the law was in operation the amount of tax collected was quite small, being only $2,741,858.25, but it increased very rapidly until it reached a maximum of $73,434,709.03 in 1866. After that time there was a gradual decline[1] until 1877, when the last revenue from this source was received. The amount collected that year was $97.79. The rapid increase for the first four years was probably due to two causes: (1) the changes made in the laws by which the rates were increased, and (2) the improvements in the method of administration. The decrease in the amount collected after 1866 can probably be explained by the changes in the laws lowering the rates and increasing the amount of exemption and also to the more successful attempts to evade the tax. While the conflict lasted, the war spirit probably kept many people from trying to evade the tax, and Mr. Morrill[2] and Mr. Sherman[3] said that every year the tax was in force the administration was more successful. As these statements were made in speeches in Congress, it seems they can hardly be considered so trustworthy as the opinion of Mr. David A. Wells, Special Revenue Commissioner, expressed in his fourth annual report, submitted in December, 1869. Mr. Wells had suggested that the rate be reduced from five per cent to three per cent, and said it would "bring within reach of the tax great numbers who now either avoid giving in lists at all, or, while doing so, force the constituents of their income so as to escape contribution entirely. The tax as fixed at present is evidently too high for revenue purposes."[4] To this opinion must be added the evidence furnished by the decline in revenue from this source, for, without any change in rates or amount of exemption, the tax collected in 1867 was nearly $7,000,000 less than that

[1] Cf. Table III (Appendix).
[2] *Cong. Globe*, 1st Sess., 39th Cong., 1866–67, p. 2437, col. 2.
[3] *Select Speeches*, p. 304.
[4] *Special Revenue Commissioner's Report* (1869), p. 76.

collected in 1866; and again in 1869, without any change in rates or exemption, the collection was over $6,500,000 less than in 1868. This would seem to indicate that there were more evasions and frauds each year. These instances of declining revenue should, however, not all be laid at the door of fraud. After the close of the war the contraction of the currency caused a fall in prices, and as a result money incomes were lower, so the taxes paid were not so great.

During the years when the income tax worked most successfully it formed a very important part of the national revenues. In the years 1865, 1866, and 1867 the income tax was 28.719, 23.473, and 24.439 per cent respectively of the entire internal revenue collected; and in the same years it was 18.935, 14.123, and 14.262 per cent respectively of the net ordinary receipts of the Federal Government. Therefore, we must say that as a fiscal measure during these years the tax was a success, but before 1865 and after 1867 its success was not so marked.

The portion of the tax paid by the different States of the Union varied greatly. The Commissioner of Internal Revenues in his report for 1872 gives the proportion paid each year from 1864 to 1872 by each State.[1] The proportions varied from year to year, but New York was always in the lead with never less than twenty-eight per cent and running as high as thirty-nine per cent. At some distance behind New York came Pennsylvania with proportions varying from eleven and one half per cent to seventeen and one half per cent. Massachusetts ran very close to Pennsylvania and in fact in the years 1867 and 1872 took second place. These three States together paid about three fifths of all the tax. The next in importance then were Ohio with four and one half to eight per cent; Illinois, with two to seven per cent; California, with two to five per cent; New Jersey, with two to five per cent; and Maryland, with

[1] Cf. Table IV (Appendix).

two to three per cent. Of course, the lowest percentages we find in the States which had been in secession, which during the war paid nothing, and also in the poorer and less developed States of the Middle West and West.

As has been said,[1] no report was made with regard to the number of persons who paid the tax until 1866, and then only the whole number of 460,170 is given. For the next six years, however, the total number is divided into classes according to the amount of tax paid.[2] The number dropped very decidedly from 1866 to 1867 when it was only 266,135, but after that time it remained fairly steady, until the increase in exemptions to $2000 caused the number of payers to drop to 74,775. These figures would seem to indicate that it was not the great body of the people, who were interested in having the tax repealed, but rather that the objections to the tax came largely from a small proportion of the population.

The chief objections urged against the tax were that it was inquisitorial and led to fraud. Neither of these can be denied, but the same thing can be said of a great many other taxes. As we shall see later, some of the greatest frauds which were uncovered during this period were in the levying and collecting of the whiskey and tobacco taxes.[3] But when we consider the taxes levied by the state and local governments, we find that they are inquisitorial, and many frauds are perpetrated under them; and yet, as a rule, we do not hear a great deal of objection to them unless the rates are very high. There is hardly a tax that these objections can be urged against more truly than the general property tax, but many of our States go on levying it year after year. If we go into almost any community where the general property tax is levied, we find it the duty of the assessor, not only to list the personal property as reported to him by the taxpayer, but also to find out, if possible, whether every person has listed all his property

[1] *Supra*, p. 91. [2] Cf. Table V (Appendix). [3] *Infra*, pp. 212–17.

subject to taxation, and if he finds any who have not done so, to see that they are properly assessed. It is needless to point out any specific instances of fraud, for failure to report the ownership of mortgages, stock and bonds, and other kinds of personal property, which can be easily hidden, is to be found on every hand. It also frequently happens that individuals swear that their assessment is too high, when the public in general is pretty thoroughly convinced that it is too low.

Neither can these objections be urged against the income tax with much, if any, more force than they can against our tariff laws. Very frequently it may be noticed in the newspapers how some one has attempted to escape paying duty on certain articles he has brought in from other countries; also we read of the very prying methods which are adopted by the customs officials to determine whether or not the country is being defrauded; and to these inconveniences the innocent as well as the guilty may be subjected. Our conclusion must be, then, that while the income tax had its drawbacks, yet it perhaps was really no more objectionable than many other taxes with which we are familiar.

In the light of the experience furnished by these laws, there are some improvements which it is possible to suggest, which doubtless would have made the tax more successful, both from the standpoint of the money it brought into the Treasury and from the feeling of the public toward it. These suggestions apply not only to the laws of 1862 to 1872, but might well be taken into consideration in the drafting of an income tax law at the present or at some future time.

First, although the principle of stoppage at the source was adopted to a certain extent,[1] it was not carried far enough. As it was, only a few specified corporations were required to withhold the tax on interest and dividends paid

[1] *Supra*, pp. 53–55.

by them, and there seems to be no good reason why this rule should not have been applied to all companies which issued stocks and bonds. Then, too, in the case of salaries, it might have been used much more extensively. As with the government paymasters, so all corporations could have been required to withhold from the salaries of their employees, the tax due the Government and to pay it over to the treasury officials. This would have made the expense of collection much less, have prevented fraud, and would, to some extent, have done away with the objection that assessment methods were inquisitorial.

Second, the amounts of exemptions and deductions allowed were too high. Our law had been modeled largely after the English law, but that did not allow any exemption at all if the income was over £200, and no exemption of over £100[1] if the income was less than £200. Granting that living expenses were higher in the United States than in England, and that therefore more exemption should be allowed, there was no reason for giving double what the English law gave. Neither was there reason for applying this exemption to all incomes. When at a later time the exemption was raised to $2000, it served as an invitation to the people to evade the tax. Of the deductions allowed, the one for house rent aroused the most criticism. This need not be dwelt on here, as it has been mentioned several times before,[2] but it caused considerable loss in revenue and led to much fraud.

Third, the methods of administration could have been greatly improved. The New York "Times" said that the objection raised was not against the principle of an income tax, but against the unwise methods of administration of the law.[3] Another criticism made by the same paper was that the assessors were unfit for their work and tried to

[1] Cf. letter of Goldwin Smith to John V. L. Pruyn, printed in the Albany *Evening Journal*, March 26, 1866, p. 1, cols. 4–6; also *supra*, p. 75.

[2] *Supra*, pp. 58, 62, 75.

[3] April 9, 1870, p. 4, col. 5.

"bully"[1] the people. It is without doubt true that the assessors were in many cases inefficient, partly because of the poor salaries paid.[2] However, the spirit of liberty and independence, common to all people of the United States, is opposed to the principle of compelling a man to declare his income, especially when the returns were systematically published, as they were for some time before 1870. But the trouble did not end with the declaration of the income. The assistant assessors were privileged to ask any questions and require the production of any books which would aid them in deciding if the returns made were correct. While no one was required to answer the questions put to him, yet the Commissioner early made a rule that the destruction or disappearance of any books of account of persons whose returns were unsatisfactory was ground for suspicion.[3] There was, therefore, some truth in the statement of Senator Davis that the whole bill and all its provisions proceeded upon the general idea that all the people upon whom it was to act were knaves and plunderers.[4] Since the assistant assessors were so poorly equipped for their work and so poorly paid, there were doubtless many cases of bribery, to get assessments cut down.

Fourth, the law would have operated more justly if a difference in rates had been made between incomes from labor and incomes from invested capital.[5] While we do not mean to say that these changes suggested would have made the income tax perfect in its operation, yet they would have made it much less objectionable.

[1] March 23, 1870, p. 4, col. 2.
[2] Mitchell, *History of the Greenbacks*, pp. 333, 334.
[3] 1 *I.R.R.*, p. 155.
[4] *Cong. Globe*, 1st Sess., 39th Cong., 1865–66, p. 3383, col. 1.
[5] *Supra*, p. 68.

CHAPTER IV

THE INHERITANCE TAX

THE first suggestion[1] for taxing inheritances by the Federal Government was in 1815, when Secretary Dallas, in his report of January 21, proposed nine kinds of taxes which were not then in operation, the first two of which were on inheritances and bequests.[2] The necessity for extra taxes was due to the war with England, and as the Treaty of Ghent[3] had already been signed, Congress did not act upon this suggestion of the Secretary. But such a tax was not unknown in the United States, for Pennsylvania had levied a tax on collateral inheritances as early as 1826,[4] Maryland, in 1845,[5] North Carolina, in 1847,[6] and Alabama, in 1848.[7]

After the outbreak of the Civil War, Secretary Chase first suggested a legacy tax[8] in his annual report for 1861, when he informed Congress that more revenues would be needed, and included this as one of six or eight possible sources.[9] The House Ways and Means Committee included

[1] Stamp taxes on inventories, receipts for legacies, probates of wills, and letters of administration had been used from July 1, 1798, to July 1, 1802, but these are not usually called inheritance taxes.

[2] *American State Papers*, vol. VI, p. 887.

[3] December 24, 1814; Bryant and Jay, *History of the United States*, vol. IV, p. 240. Notice of the signing did not reach the United States until February 11, 1815.

[4] *Historical Sketch of the Finances of Pennsylvania*, in *Publications of the American Economic Association*, vol. II, p. 206 (May, 1887).

[5] Max West, *The Inheritance Tax*, p. 108.

[6] *Ibid.*, p. 110.

[7] *Ibid.*, p. 113.

[8] During this period the term "legacy" was used to mean inheritances of personal property, and "successions" to mean inheritances of real estate; therefore, this is the sense in which these words will be used in this paper.

[9] *Finance Report* (1861), p. 15.

in their bill, introduced March 3, 1862,[1] sections placing a tax on all inheritances of personal property in excess of $1000 value, which it was estimated would produce $1,000,000 revenue.[2] This portion of the bill attracted little attention, and when Mr. Morrill of Vermont explained the bill for the committee to the House, he made no mention of the legacy tax.[3] However, it was not passed in the House without discussion. Mr. J. A. Bingham, of Ohio, could see no reason for different rates being made to apply to different persons, so he moved to amend by making a uniform rate of three and one half per cent. His motion, however, failed to prevail.[4] Mr. W. P. Sheffield of Rhode Island, thought that religious, charitable, and literary institutions should be exempt from the tax, but the House did not agree.[5] The bill, as reported by the committee, taxed legacies to "husband or wife,"[6] but on motion of Mr. Morrill, of Vermont, this was stricken out.[7] In the Senate there was little discussion on the sections dealing with legacy taxes, and they were passed without change.

The rates as provided by this law were graduated as follows:[8] —

Lineal issue or ancestor, brother or sister	.75 per cent
Descendant of a brother or sister	1.50
Uncle or aunt, or descendant of the same	3.00
Great-uncle or aunt, or descendant of the same	4.00
Stranger in blood, other collateral relatives, or corporations	5.00

The tax was payable whenever the entire legacy was in excess of $1000, without regard to the amount or value of each legacy or share, but there was no tax if the whole amount did not exceed $1000.[9] No person, when receiving

[1] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 1040, col. 3.
[2] *Ibid.*, p. 1197, col. 1.
[3] *Ibid.*, pp. 1194–97.
[4] *Ibid.*, p. 1534, col. 3.
[5] *Ibid.*, col. 2.
[6] *Ibid.*, p. 1533, col. 3.
[7] *Ibid.*, p. 1534, col. 3.
[8] Act of July 1, 1862, 12 *U.S. Stat. at Large*, pp. 485–86.
[9] Boutwell (1863), p. 200.

a legacy, was exempt from the tax except a husband or wife of the deceased. It was made the duty of the administrator, executor, or trustee to make and render to the assistant assessor, under oath, a list of such property as he should handle and to pay the tax on the same to the collector, before paying or distributing any part thereof to the legatees.[1] The tax was made a lien upon the property until fully paid, and the collector could require the production of any records, files, or papers containing or supposed to contain any information with regard to the estate. Any person having such records and neglecting or refusing to produce them was liable to a fine of $500.[2]

In order to expedite the collection of the tax, Commissioner Boutwell, in April, 1863, issued some rules for the guidance of the assessors and collectors. He ruled that in case of a transfer by deed, to take effect after the death of the grantor, the personal property transferred was liable to a tax or duty, whatever its amount or value.[3] With regard to gifts subject to annuities he decided: "Where money is directed to remain in the hands of executors, trustees, or grantees, the interest thereof to be paid annually during a life or lives in being to another person than to the husband or wife of the decedent, and after the termination of such life or lives the principal to be paid to the other person or persons, it will be proper to collect by approved tables[4] the present value of the annual payments, and to assess the tax or duty on that value, according to the relationship, at the rate prescribed in the 111th section of the excise law. From the whole sum directed to remain in the hands of the said executor, trustee, or grantee, yielding interest, deduct the value of the annual payment

[1] 12 *U.S. Stat. at Large*, p. 486.

[2] *Ibid.*, p. 487.

[3] Boutwell (1863), p. 200.

[4] In making these calculations the Carlisle tables of life annuities were to be used and were furnished by the Department. Emerson, *Internal Revenue Guide*, p. 254.

ascertained as aforesaid, and assess a tax or duty on the remainder at the prescribed rate."[1] He also ruled that when real estate was authorized by will or deed to be sold at the death of the grantor, for the payment of debts or for distribution, the real estate was converted into personal property from the death of the testator and thus subject to the tax.[2] On February 2, 1863, he rendered a decision that, however slaves may have been regarded by the laws of a State previous to their emancipation, if they were liberated by the last will and testament of their masters, they were not to be treated as personal property and not subject to the tax.[3] In July, 1863, he decided that if authority was given by a will to sell real estate, but the legatee elected to take the land, he was not relieved from paying the legacy tax.[4]

When the Commissioner made his report in 1863, he said the legacy tax was not as productive as had been generally expected. The Ways and Means Committee of the House estimated that it would produce $1,000,000 annually,[5] but it had produced only $56,592.61 in 1862 and $311,161.02 in 1863.[6] He thought that some changes, moderately raising the rates, might be made in the law,[7] without working a hardship upon the taxpayers. He also suggested that the tax be applied to transfers of real estate as well as of personal property, and that the exemption of property passing to husband or wife be limited, say, to $5000.[8]

[1] Boutwell (1863), p. 203. [2] *Ibid.*, p. 204.

[3] Cf. letter of Commissioner Boutwell to the Collector of Internal Revenues for the Fourth District of Kentucky. New York *Tribune*, February 27, 1863, p. 1, col. 2.

[4] *U.S. Internal Revenue Decisions* (1871), p. 68.

[5] *Supra*, p. 99.

[6] *Ex. Doc. No. 4*, 2d Sess., 46th Cong., 1879–80, p. 171.

[7] John Hickman, of Pennsylvania, had moved to increase the rates when the tax was first imposed in 1862, wanting them at least doubled. *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 1534, col. 1.

[8] *Finance Report* (1863), pp. 73–74.

The Ways and Means Committee followed some of the suggestions of the Commissioner, when they framed a new tax bill in 1864, in placing a tax on succession to real estate and increasing the rates on legacies of personal property.[1] In the extended debates on this bill in both the House and the Senate the general principles of the inheritance tax were hardly discussed at all, for there was practically no objection to the tax on principle. The main point on which opinion differed was with regard to rates.

The exemptions applying to personal property were not changed, but there were no exemptions in case of successions. The rates established were as follows:[2]—

	Rates on successions —per cent	Rates on legacies — per cent	Increase in legacy rates over previous law —per cent
Lineal issue, or ancestor . . .	1	1	.25
Brother or sister	2	1	.25
Descendant of a brother or sister	2	2	.50
Uncle or aunt, or descendant of the same	4	4	1.00
Great-uncle or aunt, or descendant of the same	5	5	1.00
Other collateral relatives, strangers in blood or corporations .	6	6	1.00

In this act, while husband and wife were not mentioned in any of the different classes, there was no provision for their exemption from the succession tax as there was from the legacy tax.[3] The next year an amendatory act provided that the succession tax should not apply where the successor was a wife and the clause was made retroactive.[4] The Commissioner decided that when the successor was a husband of the deceased, he was to be considered as a

[1] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 1718, col. 2.
[2] Act of June 30, 1864, 13 *U.S. Stat. at Large*, pp. 286, 288–89.
[3] *Ibid.*, pp. 286, 288–89.
[4] Act of March 3, 1865, 13 *U.S. Stat. at Large*, p. 481.

stranger in blood, and subject to the six per cent rate.[1] One clause of the law expressly provided that where real estate became subject to a trust for any charitable or public purpose it should be taxed at the maximum rate of six per cent.[2]

In the case of legacies the administrator or executor was charged with the duty of making the returns and paying the taxes,[3] but in the case of successions the person liable for the tax was required to give notice of that liability to the assessor or assistant assessor, and to furnish full accounts of the succession. Failure to furnish the proper accounts, within ten days after being notified by the assessor to do so, made the successor liable to a penalty equal to ten per cent of the amount of the tax, as did also the failure to pay the tax within ten days after notification of the assessment.[4]

In order to prevent the giving away of property before death for the purpose of avoiding the succession tax, it was provided that deeds and gifts, made without valuable and adequate consideration, conveying any real estate to any person, whether they purported to vest the estate either immediately or in the future, should be considered as a succession and taxed as such.[5] When a particular case was taken to the Commissioner for an opinion, he decided that the consideration must not only be valuable but also adequate, and "when the consideration is manifestly inadequate, a succession tax should be paid upon the value of the *entire* estate conveyed."[6] The Commissioner also held that since, in law, marriage is a valuable consideration, "A conveyance of real estate made in prospect of marriage, and *in consideration thereof*, does not confer a succession within the meaning of the internal revenue

[1] 3 *I.R.R.*, p. 101.
[2] 13 *U.S. Stat. at Large*, p. 289.
[3] *Ibid.*, p. 285.
[4] *Ibid.*, p. 291.
[5] *Ibid.*, p. 288.
[6] 3 *I.R.R.*, p. 197.

laws."[1] One other decision of the Commissioner was that when a successor was beneficially entitled to the income from land only (in other words, had a life estate only), the tax was assessable on the present worth of the annuity.[2]

There was still complaint that the tax was not as productive as it should be. The Special Revenue Commission recommended that, since such a tax had little influence in checking the development of the country, it should be made productive of large revenues. It was estimated that the entire property of the country changed hands once in thirty-two years (the lifetime of a generation), and assuming the legacy and succession duty at an average of one per cent, the receipts from this source should yield annually $5,000,000.[3] The Commission suggested certain minor changes in the administration of the law, but realizing that even then it could not be expected to work perfectly they placed their estimate of the return from this source at $3,000,000.[4] On February 15, 1866, in sending out instructions for the collection of this tax, the Commissioner said that much tax was lost because the assessors and assistant assessors did not use due vigilance. He therefore instructed the assistant assessors to call upon the clerks, registers, and other officers having charge of probate records, and upon officers having charge of the registry of deaths, to see if there were any inheritances liable to taxation; they were also required to examine the records of deeds to see if any real estate had been transferred without valuable and adequate consideration.[5]

The law was further amended in 1866, but not strictly along the lines suggested by the Special Revenue Commission. One change made affected a legacy to a minor child. By the previous laws, if the total personal property

[1] *5 I.R.R.*, p. 115. [2] Emerson, p. 140.

[3] The whole real and personal property in the United States in 1860 was $16,159,616,068. Kennedy, *Eighth Census*, p. 195.

[4] *Ex. Doc. No. 34*, 1st Sess., 39th Cong., 1865–66, pp. 31–32.

[5] Emerson, p. 253.

was in excess of $1000, it was all subject to the tax. By this law, the legacy to a minor child was taxed only on the amount in excess of $1000.[1] By previous laws a penalty of $500 was placed upon an executor or administrator who refused to produce any files or records,[2] but there was no penalty if he refused or neglected to make a return. By this law a penalty of $1000 was provided for willful neglect, refusal, or false statement.[3]

The Commissioner again made complaint, in his annual report for 1867,[4] as did also Special Commissioner Wells in his second annual report,[5] that the Government did not collect from these sources more than one half the amount to which it was rightfully entitled. Mr. Wells suggested that it seemed to be desirable to appoint special officers, charged with the collection of the tax. Congress did not provide for any such officers, but Commissioner Rollins instructed the assessors to give special attention to the collection of these taxes. He thought that while perhaps there were some frauds, most of the failures to pay the tax were due to ignorance of their liabilities on the part of the taxpayers. The next year he reported that the results of this extra effort had been quite gratifying, for the income from these sources had increased nearly a million dollars over the previous year, due in no small degree to the better administration of the law.[6]

As the surplus in the Treasury increased, it seemed that the one thought in most minds was the reduction of the revenues, and the repealing of the tax laws which had been made necessary by the war. Some men were of the opinion that Congress was about to commit the same error that had been committed after the War of 1812, when the revenues were reduced until a deficit resulted. There did

[1] Act of July 13, 1866, 14 *U.S. Stat. at Large*, p. 140.
[2] *Supra*, p. 100.
[3] 14 *U.S. Stat. at Large*, p. 140.
[4] *Finance Report* (1867), p. 258.
[5] *Report of Special Commissioner of Revenues* (1867), p. 40.
[6] *Finance Report* (1868), p. 469.

not seem to be any widespread objection to the legacy and succession taxes, but a clause for their repeal was included in the revenue bill of 1870. The House bill provided for their disposal by repealing the sections of the old laws by which they were levied.[1] The Senate amended the House bill by repealing by name the taxes on legacies and successions,[2] and this was accepted by the House.

The reasons given in the Senate for their repeal were two: (1) It was proposed to repeal certain other taxes, and if this was done, there would be left no officers charged with the special collection of these taxes. (2) Most of the taxes were paid by direct descendants. Mr. Sherman said, "Direct devise from a father to a son is so natural a disposition of property that it would not seem to be right to tax it." As so little was collected from collateral sources, it was not worth the trouble if the tax on direct heirs was repealed.[3]

The repeal of these taxes went into effect October 1, 1870.[4] By another section of the same act, any taxes levied upon bequests or devises of any real or personal property, made to a literary, educational, or charitable institution, which had not already been paid, were not to be collected.[5]

The statistics of these inheritance taxes show some interesting facts. By far the greater part of the taxes collected was at the minimum rates; over sixty-four per cent in the case of legacies and over seventy per cent in the case of successions. The year 1870 was the only one in which the taxes reached the $3,000,000 which Mr. Wells had estimated they should reach.[6] There were three territories — Dakota, Idaho, and Wyoming — in which no taxes on either legacies or successions were collected; in Montana, none were collected on legacies, and in Colorado and Utah,

[1] *Cong. Globe*, 2d Sess., 41st Cong., 1869–70, p. 4073, col. 3.
[2] *Ibid.*, p. 4708, col. 2.
[3] *Ibid.*, p. 4708, col. 3.
[4] Act of July 14, 1870, 16 *U.S. Stat. at Large*, p. 257.
[5] *Ibid.*, p. 269.
[6] Table VI (Appendix).

none on successions. About fifty-five per cent of these taxes was paid in New York, Massachusetts, and Pennsylvania, these three leading every year in the amount of legacy tax paid; but Ohio took third place in the amount of succession duties paid every year except 1869.[1]

On the whole, the inheritance taxes were considered very just and equitable. There were a few complaints against them on the ground that they were unjust because of differentiation, unequal because property held by corporations was never taxed, as they never die, and because educational, religious, and charitable institutions were not exempt.[2] In Congress, however, it was said, "The general idea is that if anything in the world should pay a tax it is legacies and successions, because they are supposed to be in the nature of a gift to the party receiving them without any consideration moving from him."[3] In the "Internal Revenue Record" we find the statement, "This tax is in principle one of the best, fairest, and most easily borne that political economists have yet discovered as applicable to modern society."[4] In fact, the inheritance taxes seem at no time to have attracted much attention. When more taxes were needed, they were put into the revenue bill without debate, and when the revenues were adequate without them, they were quietly dropped out; and the taxes were paid, as a rule, without question, so there were no occasions for the courts to render any opinions with regard to the law.

[1] Tables VII, VIII (Appendix).
[2] New York *Times*, April 30, 1870, p. 6, col. 2.
[3] *Cong. Globe*, 2d Sess., 41st Cong., 1869–70, p. 4708, col. 3.
[4] 9 *I.R.R.*, p. 113.

CHAPTER V

TAXES ON GROSS RECEIPTS AND ON BANKS

A. GROSS RECEIPTS TAX

WHILE frequently spoken of as corporation taxes, the expression, "tax on gross receipts," states more accurately what we desire to discuss in the next few pages than does the term "corporation tax." It is true that a majority of the industries taxed upon their gross receipts were owned by corporations, but some of them were the property of individuals. Taxation of corporations, while never before practiced by the Federal Government, was fairly common among the States.[1]

The bill in Congress for raising internal revenues, reported to the House by the Ways and Means Committee in April, 1862, provided for taxes on certain corporations. It did not provide for a general corporation tax, but specified certain corporations which were to be subject to the tax; nor did it provide that all the specified corporations should pay the tax on all their income. For example, steam railroads were to be taxed on their passenger traffic, but not on their freight traffic. The bill as first presented provided for a tax on railroads, steamboats, ferryboats, omnibuses, advertisements, and insurance companies. When first discussed in the House, the tax on omnibuses

[1] New York, by a law of 1823, treated of the taxation of corporations in general. (Seligman, *Essays in Taxation*, 7th ed., p. 138.) Banks were taxed in Georgia in 1805, in Massachusetts in 1812, and in Pennsylvania in 1814. (*Ibid.*, p. 143.) Insurance companies were taxed in New York in 1824, and in Ohio in 1830. (*Ibid.*, p. 150.) Taxation of railroads as corporations began with Pennsylvania in 1840. (*Ibid.*, p. 154.) Pennsylvania in 1831 began to tax corporation stocks, but only those on which dividends were paid. (Eastman, *Taxation for State Purposes in Pennsylvania*, p. xi.)

was stricken out.[1] The taxes on the other industries were to be assessed in a variety of ways.

We will consider first the taxes on railroads, steamboats, and ferryboats. The bill proposed a tax of two mills per mile on each passenger traveling on steam roads, one mill per mile on each passenger traveling on a steamboat.[2] On railroads whose motive power was not steam and on ferryboats the tax was three per cent on the gross receipts.[3] There was considerable debate in the House, especially with regard to railroads, it being argued that the rate of two mills per mile was too high, as it would make a tax of about seven and one half per cent upon gross receipts from passenger traffic. The committee in proposing this rate said that it was expected that the railroads would add the tax to the fares paid by the passengers. It was pointed out however, that this was impossible in a great many instances, as some railroads were already charging as high rates as the traffic would bear, and yet were making no profits because of the scarcity of population in the districts through which they passed.[4] This defense of the railroads was due, in part, to the fact that some of the Representatives had a personal interest in some of the roads. Mr. Morrill, of Maine, proposed that the rates be graduated according to the circumstances and ability of each road;[5] Mr. Edwards, of New Hampshire, moved to amend by putting a tax of three per cent on the gross receipts from passenger earnings;[6] and Mr. Blair, of Pennsylvania, moved to amend by levying a tonnage tax of two mills.[7] All these amendments were rejected, and this part of the bill went to the Senate substantially as presented to the House.

The question was asked why the steamboats and steam roads were taxed by the passenger mile, while other rail-

[1] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 1480, col. 2.
[2] *Ibid.*, p. 2331, col. 1.
[3] *Ibid.*, p. 1480, col. 3.
[4] *Ibid.*, p. 1482, col. 1.
[5] *Ibid.*, p. 1482, col. 2.
[6] *Ibid.*, p. 1482, col. 1.
[7] *Ibid.*, p. 1480, col. 3.

roads were taxed upon gross receipts. To this it was replied that, as the distance traveled by a passenger on the latter roads was usually quite short, it was almost impossible to get at the number of miles traveled.[1] Although the method of levying the tax on the latter was not changed, the rate was reduced from three to one and one half per cent. Before the bill left the House, a tax of one and one half per cent was levied on the gross receipts of toll-bridges,[2] on the motion of Mr. C. Delano, of Massachusetts.

The Finance Committee of the Senate proposed to strike out all of that section of the House bill which we have been discussing, and insert in lieu thereof a section which provided for a tax of three per cent upon the gross receipts from the transportation of passengers of all kinds of railroads, steamboats, and ferryboats and of three per cent upon the gross receipts from both freight and passenger traffic of toll-bridges.[3] Mr. Fessenden proposed to amend by making the rates for steam railroads and steamboats two and one half per cent and to have it apply to the receipts from both freight and passenger traffic.[4] The chief objections urged to this tax on freight receipts in both the House and the Senate were that it would be a hardship upon the poor roads in sparsely settled sections, and that it would be detrimental to the farming interests.[5] This amendment was rejected.[6]

A tax of five per cent was proposed on the gross receipts from advertisements in newspapers, reviews, and magazines. In Committee of the Whole the rate was changed to three per cent and an exemption of $600 allowed.[7] Later this exemption was raised to $1000.[8] Also an amend-

[1] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 1483, col. 2.
[2] *Ibid.*, p. 1484, col. 2.
[3] *Ibid.*, p. 2331, col. 2.
[4] *Ibid.*, p. 2332, col. 1.
[5] *Ibid.*, pp. 1480–81 and 2332–33.
[6] *Ibid.*, p. 2333, col. 2.
[7] *Ibid.*, p. 1486, col. 3.
[8] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 1487, col. 3; p. 1488, col. 2. The law did not make it clear whether this was to be a yearly or a quarterly exemption, so it was taken to the Commissioner for an

ment was adopted exempting all newspapers whose circulation did not exceed two thousand copies.[1] There was a proviso in the section permitting the publisher of any paper to add the amount of the tax to the price of the advertising in any case where the price was fixed by any law of the United States, or of any State or Territory. It was expected in other cases that the taxes would be shifted without special provision in the law. A motion was made to strike out this section because it encroached upon State authority, but it failed to pass.[2] In the Senate this section was left unchanged.

The House proposed to tax insurance companies by putting a rate of ten cents per year on each $100 of policies issued.[3] In the Senate it was argued that this rate was far too high, and the Finance Committee proposed to change it to a tax of three per cent upon gross receipts.[4] There were long debates on this question in the Senate, it being argued that as it was expected that the tax would be paid by the policy-holder, if it was too high it would drive a large amount of the insurance business to Europe.[5] The committee's substitute was finally adopted in the Committee of the Whole. When the bill came up for final passage in the Senate, the rate was cut down from three per cent to one per cent.[6]

When this bill was sent to the conference committee three hundred and fifteen amendments had been added by the Senate, to two hundred and thirty-nine of which the House conferees refused to agree.[7] The conferees for the Senate proposed to recede from sixteen of their amendments, while the House conferees receded from their dis-

opinion and he decided that it was a yearly exemption. Boutwell (1863), p. 375.

[1] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 1488, col. 3; p. 1489, col. 1.

[2] *Ibid.*, p. 1489, cols. 2 and 3.

[3] *Ibid.*, p. 1486, col. 2.

[4] *Ibid.*, p. 2334, col. 2.

[5] *Ibid.*, pp. 2338 and 2552–57.

[6] *Ibid.*, p. 2558, col. 1.

[7] *Ibid.*, p. 2890, col. 1.

agreement to two hundred and twenty-three. The House was not exactly pleased with some of the Senate amendments, but accepted them as a compromise, rather than lose the entire bill. The conference committee made a brief report in each chamber,[1] indicating only the most important changes which they had made. No reference was made in either report to the gross receipts taxes, and the reports were accepted and the bill passed without further discussion on this subject.

The bill as approved on July 1, 1862, imposed the following taxes upon gross receipts: —

Of steam railroads and steamboats, upon passenger traffic[2]	3 per cent
Of other railroads and ferryboats, upon passenger traffic[2]	$1\frac{1}{2}$
Of toll-bridges, upon receipts of every description[2]	3
From advertisements[3]	3
Of insurance companies, inland or marine[4]	1

For the administration of the tax it was provided that any owner or any person having the care and management of any of these industries, excepting insurance companies and advertisements, should, within five days after the end of every month, make returns to the assistant assessor of the amount of gross receipts for the preceding month and at the same time pay the tax to the collector. The assistant assessor was authorized, in case of failure to make the proper returns, to estimate the amount of receipts, and for that purpose could demand the privilege of inspecting the books of the company. In case of neglect to pay the tax within five days after it was due, a penalty of five per cent was added. Any person who attempted to evade the tax was liable to a fine of $1000.[5] The returns of insurance companies were to be rendered quarterly to the Commissioner of Internal Revenues within thirty days after the expiration of the quarter, and the taxes were to

[1] *Cong. Globe.* 2d Sess., 37th Cong., 1861–62, pp. 2873–77 and 2890–91.
[2] 12 *U.S. Stat. at Large*, p. 468.
[3] *Ibid.*, p. 472.
[4] *Ibid.*, p. 471.
[5] *Ibid.*, p. 469.

be paid directly to him. For default in the delivery of the quarterly account, the company was liable to a penalty of $500.[1] In the case of advertisements, the quarterly returns were to be made to the assistant assessor within thirty days after the expiration of the quarter, and at the same time the taxes were to be paid to the collector. When the proper returns were not made, the assistant assessor was to estimate the duties, and if not paid within thirty days a penalty of five per cent was added; and in case of fraud or evasion the penalty was $500.[2]

The next year, 1863, within a month of the close of the session,[3] a bill was reported proposing a great many amendments to the Act of July 1, 1862. It was not taken up for debate until six days before the close of the session[4] and evoked little discussion. It did not change the rates on any of the corporations subject to the gross receipts tax,[5] but increased the number of companies to which it was made to apply. By the law of the previous year a stamp tax had been placed on life insurance policies.[6] The act amending this law provided that accident insurance companies should pay a tax of one per cent on gross receipts and not be required to stamp their policies.[7] The previous law had also required stamps on express receipts,[8] and this requirement was repealed because it was impracticable of administration;[9] and a tax of two per cent put upon the gross receipts of all express companies.[10] The bill as first introduced had put the tax at three per cent, but on the

[1] 12 *U.S Stat. at Large*, p. 471. [2] *Ibid.*, p. 473.

[3] February 4, 1863, *Cong. Globe*, 3d Sess., 37th Cong., 1862–63, p. 716, col. 3.

[4] February 25, 1863, *Ibid.*, p. 1296, col. 2.

[5] Dr. F. C. Howe says that a tax of two per cent was put on toll-roads and toll-bridges (*U.S. Internal Revenue System*, p. 104, note 2); but there is nothing in the law to that effect.

[6] 12 *U.S. Stat. at Large*, p. 482. [7] *Ibid.*, p. 719.

[8] *Ibid.*, p. 481.

[9] *Cong. Globe*, 3d Sess., 37th Cong., 1862–63, p. 1341, col. 3.

[10] 12 *U.S. Stat. at Large*, p. 723.

motion of Mr. Conkling, it was cut down, for, he said, it would amount to a tax of fifteen per cent upon the net receipts of such companies.[1] The tax on ferryboats was now extended so that it was levied not only on the receipts from passenger traffic, but on all gross receipts.[2]

The Commissioner of Internal Revenues in his report for 1863 did not seem to think this source of revenue very important. He suggested that if more income was needed, the tax on railroads and steamboats might be made to apply to the freight as well as passenger receipts.[3] Further than this he made no suggestions.

When the House Ways and Means Committee framed a bill for increasing the revenues, however, it extended this principle of taxing corporations very materially, but did not make it a general corporation tax, indicating, instead, specific classes of companies to which it was to apply. The debates in Congress on the portions of the bill referring to gross receipts taxes are not very clear. On three different occasions, when these sections were brought up, consideration of them was postponed temporarily because the number of members present was small. However, some reasons for the rates proposed can be gleaned from the discussions. It was proposed to lower the rates on railroads to two or two and one half per cent and to make this rate apply to both passenger and freight receipts, because (1) the business was large and profitable and thus the tax would produce considerable revenue;[4] (2) the railroads were prospering more because of the war than any other business; and (3) in most instances the tax could be shifted, thus "equalizing it on the whole community."[5] There was opposition in the House to putting a tax on canals because many of them were owned in whole or in part

[1] *Cong. Globe*, 3d Sess., 37th Cong., 1862–63, p. 1342, col. 1.
[2] 12 *U.S. Stat. at Large*, p. 722. [3] *Finance Report* (1863), p. 73.
[4] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 1717, col. 3.
[5] *Ibid.*, p. 1851, col. 3.

by State Governments, and Mr. Morrill said, "It would neither be politic nor constitutional to attempt to hold any part of their revenues."[1] However, when the bill went to the Senate an amendment was passed, the intention of which was to tax all common carriers, canals included, and no suggestion was made that it was unconstitutional.[2]

There had been a stamp tax on telegraph companies, but because the stamp duties could not be equitably rated, and also because there was no simple mode of detecting whether or not stamps were used, the House Ways and Means Committee proposed to drop the stamp tax and levy a gross receipts tax of five per cent.[3] The rate proposed by the committee on operas, theaters, circuses, and museums was one per cent on the gross receipts. In the House there was an amendment offered to raise this to five per cent, but Mr. Morrill opposed it, saying that such a rate would tax them out of existence, because at least ninety-five per cent of their receipts were laid out in expenses.[4] The amendment was not adopted. The rate proposed on lotteries by the committee was two per cent and in the House this was raised to five per cent.[5] When the Senate got the bill it raised the rate to ten per cent.[6]

The Senate added many amendments to the House bill, so that the conference committee had considerable adjusting to do. The House consented to include in the act all the industries proposed by the Senate, and the Senate consented to some reductions of rates, so that the law as approved on June 30, 1864, provided for taxes as shown in table on p. 116.[7]

Some changes were also made in the methods of administration of the tax. The dates set for the return of gross receipts on advertisements were January 1, April 1, July 1,

[1] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 1717, col. 3.
[2] *Ibid.*, p. 2657, col. 3.
[3] *Ibid.*, p. 1717, col. 2.
[4] *Ibid.*, p. 1853, col. 3.
[5] *Ibid.*, p. 1852, col. 2.
[6] *Ibid.*, p. 2501, col. 1.
[7] 13 *U.S. Stat. at Large*, pp. 275–80.

On total receipts of railroads, canal, steamboat, ship, barge, canalboat or other vessel, or any stage-coach or other vehicle	$2\frac{1}{2}$ per cent
On total receipts of toll-road, ferry, or bridge	3
On total receipts of telegraph companies	5
On total receipts of express companies	3
On total receipts of marine, inland, fire, or accident insurance companies	$1\frac{1}{2}$
On total receipts of theater, opera, circus, or museum	2
On total receipts of lottery business	5
On total receipts from advertisements	3
On total receipts of canals whose water was used for mining purposes	$2\frac{1}{2}$

and October 1, and the tax was to be paid to the collector within ten days after these dates. For failure to pay the tax when due, the penalty was raised from five to ten per cent; and in case of fraud or evasion the fine was raised from $500 to $1000. The amount of receipts exempt from the tax was cut down from $1000 to $600. The returns of receipts from lottery business were to be made within ten days from the beginning of each month, and the tax was to be paid to the collector on or before the twentieth day of each month. The penalty for failing to make proper returns was $1000, and for failure to pay the tax when due, the proprietor or manager was subject to a fine of $1000 or imprisonment for one year. All other companies to which the tax applied were required, within twenty days after the end of the month, to make monthly returns to the assistant assessor and pay the tax to the collector. If the returns were not made when due, after ten days the assistant assessor was authorized to estimate the receipts and add thereto a penalty of ten per cent. For failure to pay the tax another penalty of ten per cent was added; and the fine for attempt at evasion or fraud was left at $1000.[1]

There was one part of this law which required the special attention of the Commissioner. In enumerating the kinds of common carriers subject to the tax, the law had included

[1] 13 *U.S. Stat. at Large*, pp. 277–80.

after stage-coaches the words "or other vehicles." The Commissioner was asked whether hacks and carts when used for hire were to be taxed. Commissioner Orton, on October 28, 1865, rendered the opinion that "other vehicles" carried property and passengers over established routes, while carts and hacks did not; cartmen and hackmen, as a rule, were unable to add the tax to the charges; the authority for imposing the tax on them was merely inferred and cause existed for grave doubt as to the intention of Congress, so he said, "I am of the opinion, therefore, that it is impolitic to require further returns and payments from the persons engaged in the business under consideration." [1]

When the question was again brought to the attention of the Commissioner, he ruled that teamsters who did a regular business on a continuous route were not excepted from the tax, but cartmen were, because their returns were small and precarious.[2] Some time later he rendered the opinion that only proprietors of such hacks, carts, drays, and wagons as did a promiscuous business, transferring persons and property whenever and wherever a job was offered, were exempted by the former decision.[3] Congress sanctioned these decisions when they amended the law in 1866 by including the phrase, "except hacks or carriages not running on continuous routes." [4]

The Commissioner was also asked for an opinion as to what constituted the gross receipts of insurance companies. He answered that insurance companies in making a list of their taxable gross receipts were not to be allowed to deduct the amount paid by them for reinsurance.[5]

In the amendments made to the internal tax law the next year (1865) none of the rates on gross receipts was changed, nor was the tax extended to any other companies. A pro-

[1] 2 *I.R.R.*, p. 138. [2] 3 *I.R.R.*, p. 86. [3] 3 *I.R.R.*, p. 140.
[4] Act of July 13, 1866, 14 *U.S. Stat. at Large*, p. 135.
[5] 2 *I.R.R.*, p. 108, and 3 *I.R.R.*, p. 13.

vision was added, however, that no tax was to be assessed on common carriers unless their receipts were in excess of $1000 per annum.[1]

The Special Revenue Commission, in its report of January, 1866, made some important recommendations with regard to the gross receipts tax. The report stated that the majority of the taxes on common carriers yielded inconsiderable amounts,[2] the tax on railroads being the only exception, and as taxes were being lowered generally, sound policy required that the gross receipts tax should be repealed as soon as practicable. It was also pointed out that there was an unreasonable discrimination in putting a five per cent tax on telegraph companies when the tax on express companies was only three per cent. The commission said that the express companies were, for the most part, monopolies, and that the average rate of profits paid by them was believed to be higher than in almost any legitimate business; and, therefore, it recommended that the rate might well be advanced to a higher figure than five per cent.[3]

These recommendations did not have much weight with the House Ways and Means Committee. When a bill was first drawn up for amending the tax laws, the rate on express companies was raised from three to five per cent, but when the bill was revised before being reported, it was lowered again to three per cent. Mr. Morrill gave as the reason for the change, "When we are reducing taxation in every direction, it appeared too invidious to single out one class of business, and that one giving marked distinction to American enterprise, and doom it to a tax equal to twelve or fifteen per cent upon its net annual receipts."[4] The

[1] Act of March 3, 1865, 13 *U.S. Stat. at Large*, p. 478.

[2] "The receipts from bridges and toll-gates for the fiscal year 1865 was $75,269; from canals, $92,421; from ferries, $126,133; from stage-coaches, wagons, etc., $469,188; and from railroads, $5,917,293." *Ex. Doc. No. 34*, 1st Sess., 39th Cong., 1865–66, p. 32.

[3] *Ibid.*, p. 32.

[4] *Cong. Globe*, 1st Sess., 39th Cong., 1865–66, p. 2436, col. 3.

recommendation to repeal the taxes on gross receipts was not followed. There was very little discussion with regard to them, in either house, the main point upon which there was a difference of opinion being the advisability of permitting the companies to add the tax to their charges. In the House the proviso permitting this was stricken out,[1] but it was reinstated by the Senate.[2] The conference committee reached a compromise by providing that this privilege should be granted until the 30th day of April, 1867.[3]

The only tax repealed was the two and one half per cent rate on canals whose water was used for mining purposes. The rates on telegraph companies were lowered from five to three per cent. The tax on all common carriers, except toll-roads, toll-bridges, and ferries, was changed so that it was no longer levied on freight receipts, but only upon the receipts from mail and passenger traffic.[4] One kind of tax which had been previously repealed was restored. The tariff act of March 3, 1865, had provided that "the receipts of vessels paying tonnage duty" should not be subject to the gross receipts tax,[5] but this later act imposed a tax of two and one half per cent upon the gross receipts of steamboats, ships, and other vessels, and did not exempt those paying tonnage.[6] When the owners of certain vessels questioned the right to collect the tax, Mr. Jordan, the Solicitor of the Treasury, on February 19, 1867, gave it as his opinion that this provision of the tariff act was repealed by the Act of July 13, 1866, and vessels paying tonnage were not exempt from the gross receipts tax.[7] On November 25, 1869, another solicitor concurred in this opinion.[8]

At its next session Congress followed a few of the suggestions of the Special Revenue Commission, made in January,

[1] *Cong. Globe*, 1st Sess., 39th Cong., 1865–66, p. 2839, col. 3.
[2] *Ibid.*, p. 3318, col. 3.
[3] *Ibid.*, p. 3607, col. 3.
[4] Act of July 13, 1866, 14 *U.S. Stat. at Large*, p. 136.
[5] 13 *U.S. Stat. at Large*, p. 493.
[6] 14 *U.S. Stat. at Large*, p. 136.
[7] 5 *I.R.R.*, p. 124.
[8] 10 *I.R.R.*, p. 177.

1866. The tax on advertisements and toll-roads was repealed.[1] The tax on ferryboats and bridges was reduced from three per cent to two and one half per cent, because of the difficulty in administering the law with regard to ferryboats. A great many ferryboats were run by steam and, under the then existing law, ferries were taxed at three per cent, while steamboats were taxed at two and one half per cent; and it was thought that it would simplify matters if they were both taxed at the same rate.[2] Also that part of the Act of July 13, 1866, which limited the time to April 30, 1867, in which common carriers might add the tax to their charges, was stricken out.[3]

During the next three years we hear little of the gross receipts tax, except when some decision was necessary by the Internal Revenue Commissioner or the courts. One important ruling the Commissioner made was with regard to circuses, the purpose being to prevent the proprietors from evading the tax by moving from place to place. It was: "Returns of circuses, or other traveling exhibitions, representations, and shows, shall be made in the district where they exhibit. *Provided*, that the proprietor or proprietors thereof may, before they leave any district in which they so exhibit, make a statement under oath to the assessor of the gross amount of their receipts in such district, giving their residence or their principal place of business, . . . with a request that the said assessor shall transmit the same to the assessor of —— (that district)."[4] With regard to lotteries, he decided that the term "gross receipts" meant "the entire receipts from the lottery business, comprising those from the sale of tickets, fractional parts of tickets, tokens, certificates and devices representing, or intending to represent, lottery tickets or fractional parts

[1] Act of March 2, 1867, 14 *U.S. Stat. at Large*, p. 485.
[2] *Cong. Globe*, 2d Sess., 39th Cong., 1866–67, p. 1414, col. 3.
[3] 14 *U.S. Stat. at Large*, p. 475.
[4] 6 *I.R.R.*, p. 139; 8 *I.R.R.*, p. 12.

thereof, and policies of numbers, and receipts of the business from any and all other sources, without deduction on account of prizes, 'hits,' tickets returned and exchanged, commissions, expenses, or any other account whatsoever."[1]

The constitutionality of the gross receipts tax was tested in 1868 in the case of Pacific Insurance Company *v.* Soule.[2] The Supreme Court rendered the opinion that the tax on premiums received by insurance companies was not a direct tax, but an excise duty and so constitutional. In this opinion it followed the interpretation of "direct tax" which was established by the unanimous decision in the case of Hylton *v.* United States.[3] In the same case — Pacific Insurance Company *v.* Soule — the court decided that when receipts were paid in coined money, the returns must be made and the tax paid on the value of the coined money in legal tender currency.

In his second annual report,[4] Special Commissioner Wells suggested that the rate on gross receipts of operas, theaters, circuses, and museums might be raised from one to four per cent.[5] Congress, however, did not make any change. When Mr. Wells made his fourth report in 1869, his attitude toward this class of taxes had changed. He said that taxes on gross receipts brought in only about $7,000,000, and he therefore advised that they be dropped.[6]

This time Congress was more ready to follow his suggestion. The House passed a bill retaining a three per cent tax on lotteries and places of amusement,[7] but repealed all the other gross receipts taxes.[8] The Finance Committee in the Senate offered to amend the House bill by repealing all gross receipts taxes,[9] and the proposal was accepted.

[1] 9 *I.R.R.*, p. 202; 10 *I.R.R.*, p. 11.
[2] 7 *Wall.*, p. 433.
[3] 3 *Dallas*, p. 171.
[4] This report was made in January, 1868.
[5] *Report of Special Commissioner of Revenues* (1867), p. 41.
[6] *Ibid.* (1869), p. 78.
[7] *Cong. Globe*, 2d Sess., 41st Cong., p. 3496, col. 1.
[8] *Ibid.*, p. 3495, col. 3.
[9] *Ibid.*, p. 4708, col. 2.

At one time, however, the Senate came very near to reversing its action. The fate of this tax hung pretty largely on the Senate vote on the income tax.[1] When the Senate voted to repeal the income tax, Mr. Sherman moved to restore the gross receipts tax, saying, "I do not believe there are many taxes in the tax list that are worse than the tax on gross receipts";[2] but without it a deficit would result. The motion was lost by a tie vote[3] and so the gross receipts taxes ceased to be collected after the 1st of October, 1870.[4] The Senate was criticized for refusing to restore the gross receipts tax and to repeal the income tax,[5] because it was reported that the change of attitude was due to the influence of the railroads. One paper said, "It is reported that a powerful railroad ring has been lobbying in Washington to secure the reimposition of the income tax as a means of ridding themselves of the tax on gross receipts."[6] Senator Sherman, however, very strongly denied that the railroads had had any influence over the Senate in the action it had taken.[7]

Looked at from a financial standpoint, these taxes were by no means as successful as it was expected they would be. The House Ways and Means Committee estimated the returns from this source at $8,000,000[8] annually, which point was reached only twice in the history of the tax, in 1865 and 1866,[9] and that was after the tax was extended to several kinds of companies which had not been included in the first law. Their estimate for the income from advertise-

[1] *Supra*, p. 82.
[2] *Cong. Globe*, 2d Sess., 41st Cong., 1869–70, p. 5091, col. 1.
[3] *Ibid.*, p. 5092, col. 1.
[4] Act of July 14, 1870, 16 *U.S. Stat. at Large*, p. 256.
[5] New York *Times*, July 5, 1870, p. 4, col. 2; New York *Journal*, July 4, 1870, p. 4, col. 5; and quotations from New York *Sun* in *Cong. Globe*, 2d Sess., 41st Cong., 1869–70, p. 5234, col. 3.
[6] New York *Tribune*, July 4, 1870, p. 4, col. 5.
[7] *Cong. Globe*, 2d Sess., 41st Cong., 1869–70, p. 5235, col. 1.
[8] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p.1197, col. 1.
[9] Cf. Table X (Appendix).

ments was $2,000,000 annually. The first year the law was in operation these taxes amounted to less than $41,000; and the total amount for the six years the tax was collected was less than $1,000,000. The railroad companies paid more than half of all the gross receipts taxes, and insurance companies about fifteen per cent of the total, while canals paid the least, their portion being only about one half of one per cent of the total amount collected.

The taxing of corporations on gross receipts is only one of a variety of methods which might have been adopted. It has both advantages and disadvantages. Professor Seligman says in favor of this method that it is certain, easily ascertained, and not susceptible of evasion.[1] However, it has one fault which to a very large extent outweighs its virtues, and that is that a tax on gross receipts or gross earnings is not proportional to the real earning capacity of a corporation. When two corporations are doing the same kind of business, the conditions under which the business is carried on may be such that the one with large gross receipts will have a smaller net income than the other with much smaller gross receipts. For example, a railroad running through a level country which is more or less densely populated may have gross receipts of $5,000,000 a year, and, its expenses being only $3,000,000, have a net income of $2,000,000. On the other hand, a railroad in a thinly settled mountainous region might have gross receipts of $6,000,000 and expenses of $5,000,000, leaving only $1,000,000 net income. A tax of two and one half per cent on each of these roads would not be at all in proportion to their ability to pay. This defect is liable to be intensified when corporations, engaged in different kinds of business, are taxed on gross receipts at the same rate.

When looked at from the standpoint of the party who really paid the tax, the question comes up whether there was any inequality in its being levied on gross receipts. If

[1] *Essays in Taxation*, 7th ed., p. 196.

the tax was shifted to the consumer, it could make no difference to the corporation whether the net earnings were large or small, so far as the tax was concerned. Of course, it is impossible to tell just to what extent the tax was shifted, but it was expected when the different acts were passed that it would be shifted, and when there was anything in a state or federal law limiting the rates that might be charged, a proviso was added to the several laws, making it legal to add the tax to these rates.[1]

In conclusion, we may say that, while Mr. Wells considered the rates excessive and the taxes burdensome,[2] there was no general complaint against them. Doubtless the consumer paid the taxes in most instances, but he either did not notice them or felt that, as a rule, they were too light for complaint. In some instances it was to the interest of the corporations to have the tax retained, as the law provided that a company could add the tax to their charges to the public, and when the tax amounted to only a fraction of a cent, one cent might be added in lieu of the fraction.[3] It is probable that they also seized the opportunity, in some instances, to increase prices in excess of the amount stipulated in the law.

B. BANK TAXES

The first taxes levied on banks by the Federal Government during the Civil War were not primarily war measures if we except the income tax on dividends and interest[4] and the license tax.[5] On February 25, 1863, an act, usually known as the National Banking Association Act, was approved, providing for a national currency secured by a pledge of United States bonds. It provided for the organ-

[1] 12 *U.S. Stat. at Large*, pp. 473 and 469; 13 *U.S. Stat. at Large*, pp. 276 and 280; 14 *U.S. Stat. at Large*, pp. 136 and 475.

[2] *Report of Special Commissioner of Revenues* (1869), p. 78, note.

[3] Act of July 13, 1866, 14 *U.S. Stat. at Large*, p. 136.

[4] *Supra*, p. 55.

[5] *Infra*, p. 167.

ization of banks under federal control. These banks were to purchase United States bonds and to deposit them with the Treasurer of the United States, and then were entitled to receive from the Comptroller of the Currency circulating notes up to the value of ninety per cent of the bonds. In order to defray the expenses necessary in the preparation of these notes, a tax was levied upon the banks. In the discussion of the bill the emphasis was laid upon the more important parts, and this matter of detail was not debated in either chamber. In lieu of all taxes upon this circulation, and upon the bonds deposited for securing it, each bank was required to pay semiannually to the Comptroller of the Currency one per cent on the amount of circulating notes received.[1]

There were no taxes collected under this law, for in less than a week another act was passed which changed the rate of tax on circulation and made it apply to all kinds of banks. This, like the former act, was not strictly a revenue measure. The main purpose of the bill was to authorize the Secretary of the Treasury to borrow money and issue treasury notes. However, the section levying a tax on the circulation of banks was debated more than any other part of the bill. When it was discussed in the House, there were three points around which the debate centered. The first, and most important, was that Congress had no right under the Constitution to tax a corporation which received its franchise from a State,[2] second, that banks were already sufficiently taxed by the three per cent rate on dividends;[3] and third, that if any tax was levied on circulation, the rates proposed were too high.[4] However, the bill passed the House as reported by the Ways and Means Committee with a few changes of minor importance.[5]

In the Senate most of the section imposing a tax on bank

[1] 12 *U.S. Stat. at Large*, p. 670.
[2] *Cong. Globe*, 3d Sess., 37th Cong., 1862–63, pp. 520–21.
[3] *Ibid.*, p. 459, col. 1. [4] *Ibid.*, p. 461. [5] *Ibid.*, p. 927, col. 3.

circulation, at the rate of one per cent semiannually, was stricken out, and in its place was substituted a tax of one half of one per cent semiannually until April 1, 1865, and after that a tax of one per cent each half-year.[1] The House would not concur in this change. Three conferences were held over the bill. The first committee reported that they were unable to reach any agreement on the twenty-third amendment offered by the Senate, which related to the taxing of circulation.[2] The second committee made a similar report.[3] It was recommitted again and this time an agreement was reached. The committee recommended that the Senate recede from its twenty-third amendment, but proposed to add an amendment for the taxing of bank deposits.[4] This proposal had already been voted down in the Senate,[5] but now it was accepted by both houses.

The semiannual rates on circulation, which were graduated according to the amount of the capital of the bank, were as follows: —

Capital	Rate ½ per cent	Rate 1 per cent
Not over $100,000	Up to 90% of capital	Over 90% of capital
$100,000– 200,000	80	80
200,000– 300,000	70	70
300,000– 500,000	60	60
500,000–1,000,000	50	50
1,000,000–1,500,000	40	40
1,500,000–2,000,000	30	30
Over 2,000,000	25	25

A semiannual tax of five per cent was put upon the issue of any bank notes for a fractional part of a dollar, with the thought that it would act as a check on their issue.

The semiannual rate upon deposits was one eighth of one per cent upon the average amount of deposits of a

[1] *Cong. Globe*, 3d Sess., 37th Cong., 1862–63, p. 945, col. 1.
[2] *Ibid.*, p. 1313, col. 1.
[3] *Ibid.*, p. 1351, col. 3.
[4] *Ibid.*, p. 1398, col. 3.
[5] *Ibid.*, pp. 942–44.

bank beyond the average amount of its circulating notes. Savings institutions were not taxable on deposits. In the case of a bank with branches, each branch was to be taxed separately. These rates on circulation and deposits were applicable to the national banks, organized under the Act of February 25, 1863, but the tax was payable to the Comptroller of the Currency as provided in that act; while in the case of other banks the returns were to be made and the tax paid to the Commissioner of Internal Revenues, with a penalty of $500 for failure to perform this duty.[1]

Some decisions by the Solicitor of the Treasury and the Commissioner of Internal Revenues were necessary to insure a uniform interpretation of these laws. The Solicitor decided that national banks were subject to a tax on the average amount of their notes in circulation. The currency act of February 25, 1863, had levied a tax on the amount of notes received from the Comptroller, whether they were put in circulation or retained by the bank, but the Act of March 3, imposed the same duty on the circulation of these institutions as on other banks. He also decided that the tax on deposits of national banks should be paid to the Commissioner of Internal Revenues, instead of to the Comptroller, as the law seemed to imply.[2]

The Comptroller of the State of New York had rendered a decision that the Federal Government did not have the authority under the Constitution to tax the deposits of state money held by a bank. To this Internal Revenue Commissioner Lewis replied that whenever state money was deposited in a bank it was no longer the property of the State, but became the property of the bank and so was subject to the tax.[3] In this decision the Commissioner was following precedent, for numerous court decisions had

[1] Act of March 3, 1863, 12 *U.S. Stat. at Large*, pp. 712–13.
[2] *Bankers' Magazine* (New York), vol. 18, pp. 442–43 (December, 1863).
[3] *Ibid.*, pp. 452–56 (December, 1863).

established the principle that a simple deposit transfers the ownership of the money to the bank.[1]

Some institutions attempted to escape the tax on deposits, because they were organized under the title of savings banks. The Commissioner decided that "Savings institutions and associations, transacting a regular banking business, and receiving deposits from the mercantile community, payable on check or draft, cannot claim exemption by virtue of the name or style under which they are known or called." [2]

In 1864 another act was passed improving the organization of the national banks, and in it were made some changes in the taxation of these institutions. The internal revenue laws were also amended and certain changes were made with regard to other banking institutions. The House spent considerable time, while the National Bank Bill, or, as it was spoken of at that time, the Currency Bill, was under consideration, in discussing the possibility of banks chartered under federal authority being exempt from state and municipal taxes,[3] but no changes in the taxation of these banks by the Federal Government were suggested. The Senate amended the bill by providing for a tax on circulation, deposits, and capital,[4] and the House concurred.

The difference in the rate on circulation depending on the amount of capital and circulation of a bank was dropped, and a semiannual tax of one half per cent was levied upon the average amount of circulation of each national bank. The rate on average deposits was increased from one eighth of one per cent to one fourth of one per cent each half-year, and a new tax of one fourth of one per cent was imposed upon the average amount of capital

[1] Cf. Morse, *Law of Banks and Banking*, p. 972. English case, Foley *v.* Hill, *2 H.L. Cases*, 19; American cases, Commercial Bank of Albany *v.* Hughes, 17 *Wend.* (N.Y.), 94; Bullard *v.* Randall, 1 *Gray* (Mass.), 605.

[2] *U.S. Internal Revenue Decisions* (1871), p. 74.

[3] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, pp. 1391–94.

[4] *Ibid.*, p. 1873, col. 3.

stock beyond the amount invested in United States bonds. There were some changes in administration made by this act. The taxes were no longer payable to the Comptroller of the Currency, but to the Treasurer of the United States. Each association was required to make a return of its average amount of circulation, deposits, and capital within ten days from the 1st day of January and July of each year. The penalty for failure to make the returns was $200, and could be withheld from the interest due to the association on the bonds deposited with the Treasurer. There was a provision in the act that the shares of these banks were not exempt from taxation by state authority, but no State was allowed to tax shares of a national bank at a higher rate than it taxed state banks.[1]

In the amended internal revenue law the main object for changing the tax on banks was to make the state banks pay the same taxes as the national associations.[2] During the discussion in the House, Mr. Farnsworth, of Illinois, offered an amendment, which was adopted by the House,[3] that a tax of one fourth of one per cent be levied each month on the circulation of state banks and that after six months it should be unlawful for any institution to issue notes without the sanction of Congress. Mr. Farnsworth said, "The principal object of my amendment is to compel the state banks to withdraw their circulation from the country."[4]

When the bill went to the Senate there were several amendments adopted.[5] Then Senator Sherman moved a substitute, which changed some of the rates and made the tax payable monthly instead of semiannually. He said that he desired monthly payments to be made in order to get the amount of monthly circulations of state banks, as

[1] Act of June 3, 1864, 13 *U.S. Stat. at Large*, pp. 111–112.
[2] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 2562, col. 2.
[3] *Ibid.*, p. 1941, col. 1.
[4] *Ibid.*, p. 1934, col. 2.
[5] *Ibid.*, pp. 2560–61.

the national banks were required to make such returns.[1] Mr. Sherman made a long speech setting forth the advantages of his substitute, but did not convince the Senate, and it was lost by a vote of 11 to 25.[2] This was in the Committee of the Whole. When the bill came up for final adoption in the ordinary session, Mr. Sherman proposed certain amendments which were in most points the same as his substitute, that the Senate in the Committee of the Whole had rejected. These amendments were again rejected, but this time by a majority of only one, the vote standing 15 to 16. Several Senators who were absent when the vote was taken came in, and Senator Ten Eyck, of New Jersey, moved to reconsider the vote by which the amendment was lost. The Senate agreed to this, and then adopted the amendment offered by Mr. Sherman.[3]

The conference committee left most of the section taxing banks as the Senate had adopted it, but reduced the penalty for failure to make returns and payment of the tax from $1000 to $200, and reduced the tax on currency issued in excess of ninety per cent of the capital stock from one fourth to one sixth[4] of one per cent per month. Both houses adopted the report of the conference committee.[5]

In this act, as in the act of June 3, the division of banks into classes according to the amount of their capital was given up, and a monthly tax of one twelfth of one per cent was imposed upon the average circulation issued by a bank, and an additional monthly tax of one sixth of one per cent on the average circulation beyond ninety per cent of the capital of the bank. Circulation was interpreted to mean not only notes, but also certified checks and other obligations intended to be used and to circulate as money.

[1] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 2562, col. 1.

[2] *Ibid.*, p. 2591, col. 2.

[3] *Ibid.*, p. 2738, col. 2–3. The yeas and nays were not ordered on either of these motions.

[4] *Ibid.*, p. 2734, col. 2.

[5] *Ibid.*, p. 3256, col. 1, and p. 3278, col. 1.

The tax on deposits was made monthly at the rate of one twenty-fourth of one per cent. A new tax was imposed at the rate of one twenty-fourth of one per cent per month on the bank's capital. These taxes were not to apply to national banks nor to savings banks without capital stock. Any state bank could avoid paying the tax on circulation by ceasing to issue notes and depositing in the Treasury of the United States, in lawful money, the amount of its outstanding circulation. It is practically impossible to determine what effect this tax had on the circulation of state banks. As many state banks took out charters under the National Banking Act, the decrease in the tax collected through the Internal Revenue Office on issues of state banks is no indication that the banks gave up their circulation to avoid the tax. It is probable that as the tax was only one per cent a year the effect was negligible. The administration of the law was not materially changed except that the returns were made monthly instead of semi-annually, and it was required that they be made in duplicate, one copy to be rendered to the assessor of the district in which the bank was situated and the other to be sent to the Commissioner of Internal Revenues. The penalty for failure to make returns and payment of the taxes was reduced from $500 to $200.[1]

The next year the Internal Revenue law was amended and suggestions were made in the House Committee on Ways and Means for changes in the section taxing banks, but none were agreed upon. When the bill was under discussion in the House in Committee of the Whole, Mr. Hooper, of Massachusetts, proposed to levy a tax of one fourth of one per cent per month until January 1, 1866, and after that one half of one per cent per month upon the circulation of any institution which was not a national bank.[2] The object was to bring about one system of

[1] Act of June 30, 1864, 13 *U.S. Stat. at Large*, pp. 277–78.
[2] *Cong. Globe*, 2d Sess., 38th Cong., 1864–65, p. 803, col. 2.

currency or bank paper. Mr. Wilson, of Iowa, proposed to make the rate one half of one per cent until September 1, 1865, and after that one per cent.[1] These propositions were both voted down.[2] In the regular session of the House, Mr. Hooper proposed substantially the same amendment again[3] and it was again rejected. Then Mr. Wilson proposed that a tax of ten per cent per annum be levied upon any bank, state or national, on any notes of state banks paid out by them after January 1, 1866.[4] The vote on this measure was very close, it being passed by a majority of only two.[5] There had not been much discussion on it in the House, but in the Senate the debate was very extended.[6] The principal reason for discussion was that the supporters of the system of national banks wanted to legislate in favor of them by limiting the circulation of state banks, while the opponents wanted at least to give state banks the same privileges as the national banks. There was a motion in the Senate to strike this part out of the bill, but it was lost,[7] and the only change made in it was that the time when it was to go into operation was changed from January 1 to July 1, 1866.[8]

In the Senate the bank section was further amended. Trust companies had insisted that they came under the class of savings banks without capital, and so were exempt from the tax on deposits.[9] The reason for exempting savings banks from the tax on deposits was that they were supposed to be run primarily for the benefit of the poorer classes of the people; but many people of considerable

[1] *Cong. Globe*, 2d Sess., 38th Cong., 1864–65, p. 803, col. 3.
[2] *Ibid.*, p. 836, cols. 1–2.
[3] *Ibid.*, p. 879, col. 3.
[4] *Ibid.*, p. 880, col. 3.
[5] *Ibid.*, p. 881, col. 1. The vote stood 64 to 62.
[6] *Ibid.*, pp. 1183–96 and 1238–44.
[7] In the Committee of the Whole the Senate refused to strike it out by a vote of 22 to 20 (*ibid.*, p. 1244, col. 3), and in the ordinary session by a vote of 21 to 17 (*ibid.*, p. 1288, col. 3).
[8] Act of March 3, 1865, 13 *U.S. Stat. at Large*, p. 484.
[9] *Cong. Globe*, 2d Sess., 38th Cong., 1864–65, p. 1179, col. 3.

means had large deposits with them. Therefore, the Senate Finance Committee proposed an amendment striking out the proviso which exempted savings institutions. Opinion seemed to be pretty evenly divided on this also, for in the Committee of the Whole the vote was a tie and the Vice-President voted in the affirmative.[1] In the regular session it carried by a majority of two votes.[2] When the conference Committee reported this amendment in the House, there was no discussion on it,[3] and the savings banks were made subject to a tax of one twenty-fourth of one per cent on deposits.[4]

The next year, when the revenue law was again amended, the only change made with regard to banks was that savings institutions were taxed only on such deposits as were not invested in United States bonds and where the deposit of any one person was in excess of $500.[5]

In the next three years the law taxing banks was not changed, but there were many cases brought before the courts and different government officials to determine the meaning of the statute. The law of June 30, 1869, had provided for a tax of one twelfth of one per cent upon the average amount of circulation of a bank and an additional duty of one sixth of one per cent upon the average amount of circulation above ninety per cent of the capital. Internal Revenue Commissioner Lewis interpreted this as requiring a bank to pay both one twelfth and one sixth of one per cent on the circulation in excess of ninety per cent of the capital. In the case of the United States *v.* Columbia Bank, tried in the United States Circuit Court in Philadelphia, the opinion of the Commissioner was overruled; so the rate was only one sixth of one per cent on the circulation above ninety per cent of the capital.[6]

[1] *Cong. Globe*, 2d Sess., 38th Cong., 1863–64, p. 1188, col. 2.
[2] The vote was 22 to 20. *Ibid.*, p. 1286, col. 3.
[3] *Ibid.*, p. 1406, col. 2.
[4] 13 *U.S. Stat. at Large*, p. 479.
[5] Act of July 13, 1866, 14 *U.S. Stat. at Large*, p. 137.
[6] *Bankers' Magazine* (New York), vol. 20, pp. 447–48 (December, 1865).

The classing of certified checks as bank circulation and subjecting them to the tax of one twelfth of one per cent a month was said to have caused consternation in banking circles, and it was asserted that it would necessarily prohibit their use altogether.[1] Commissioner Lewis gave as the reason for taxing them that when a check was certified the deposits were reduced by the amount of the check and thus the tax on deposits was lost.[2] The banks showed great reluctance in paying this tax, although it was definitely stated in the law and in two rulings issued by the Commissioner, that certified checks must be included in the returns of circulation.[3] The Commissioner also decided that a state certificate of indebtedness which circulated as money was subject to the tax on circulation.[4]

In the case of Bank of Savings *v.* The Collector, the United States Supreme Court decided what kind of savings institutions were subject to a tax on deposits. The court held that a savings bank which received deposits and loaned them for the benefit of the depositors was engaged in the banking business within the meaning of the law, and subject to the tax of one twenty-fourth of one per cent on such deposits.[5]

In the United States Circuit Court, District of Southern New York, in the case of the Farmers' Trust Company, Judge Shipman decided that trust companies were subject to a tax on deposits precisely as regular banks of deposit.[6] The Commissioner of Internal Revenues rendered a decision that any corporation which received deposits from its employees alone, and paid interest on them, was liable to the deposit tax.[7]

The question of what was to be returned as deposits

[1] *Commercial and Financial Chronicle*, vol. 7, p. 6 (July 4, 1868).
[2] *Bankers' Magazine* (New York), vol. 19, p. 677 (March, 1865).
[3] 1 *I.R.R.*, p. 155, and 2 *I.R.R.*, pp. 18–19.
[4] 5 *I.R.R.*, p. 148.
[5] 3 *Wall.*, pp. 509–13.
[6] *Bankers' Magazine* (New York), vol. 20, p. 821 (April, 1866).
[7] 3 *I.R.R.*, p. 93.

called forth several decisions. The Commissioner decided that the average amount of deposits held during a month, and not the average amount received, was to be taken as the correct amount subject to the tax.[1] To ascertain the average amount of deposits, the amount of daily balances during the month was divided by the number of business days in the month.[2] When a savings bank credited its depositors with interest, the amounts thus credited were treated as deposits.[3] When *bona-fide* deposits were made with a bank, it made no difference whether they were general or special, they were subject to the tax.[4] Some banks held that they should not be taxed on deposits which were invested as soon as received. The United States Circuit Court, in the case of United States *v.* Farmers' Loan and Trust Company,[5] and the United States Supreme Court, in the case of Bank of Savings *v.* The Collector,[6] held that all moneys received by a bank, whether for safekeeping or investment, were deposits, and were liable to taxation as soon as received. The fact that they were invested as soon as received did not exempt them from the tax.

There was one question with regard to deposits which was of particular interest to the national banks of large cities, and especially to those of New York City. The banks held that the tax should be levied on the net deposits, while the Treasurer of the United States, Mr. Spinner, held it should be levied on the gross deposits.[7] The distinction between net and gross deposits was, that, while the gross deposits included all amounts on the books at the hour of closing of the bank in the evening, the net deposits were the amounts as shown on the books after the bank had made

[1] 2 *I.R.R.*, p. 29. [2] 5 *I.R.R.*, p. 74. [3] 2 *I.R.R.*, p. 92.
[4] 11 *I.R.R.*, p. 137. [5] 3 *I.R.R.*, p. 62. [6] 3 *Wall.*, p. 495.
[7] *Commercial and Financial Chronicle*, vol. 2, p. 226 (February 24, 1866). The Treasurer had jurisdiction in the case of taxes on national banks, because these taxes were payable directly to him and not to the Internal Revenue Commissioner.

its settlements with the clearing-house the next morning. Mr. Spinner sent out instructions that, if any banks had made out their returns showing the amount of deposits after the settlements at the clearing-house, they should make additional returns.[1] The banks of New York City objected to this and sent resolutions to the Treasurer explaining their viewpoint, but these did not persuade the Treasurer to reverse his decision.[2] The banks then appointed a committee to go to Washington to confer with the Treasurer. They pointed out that, owing to the existing business methods, it was practically impossible for the business of the clearing-house to be done in the evening, and yet the large sums of money which were put in one bank during a day, but drawn out by checks deposited in other banks, formed no part of the assets or available funds of the bank. Mr. Spinner receded promptly and cordially from his former position when the committee had explained the grounds for the attitude taken by the banks.[3]

One decision rendered in the United States Circuit Court does not seem to have been followed in taxing the capital of banks. The case of the Mechanics' and Farmers' Bank *v.* Theodore Townsend was a suit to determine the amount of license tax due from a bank. In rendering its decision the court held that the surplus earned by the bank was no part of the capital, nor did the statute, either expressly or impliedly, regard it as such. "Capital of a bank and surplus earnings convey distinct and different ideas and meanings."[4] The Commissioner of Internal Revenues, both before and after this opinion was handed down, gave a different interpretation to surplus from that used by the court. On August 1, 1864, the Commissioner rendered an

[1] *Commercial and Financial Chronicle*, vol. 2, p. 169 (February 10, 1866).

[2] *Ibid.*, p. 200 (February 17, 1866); also *Bankers' Magazine* (New York), vol. 20, p. 731 (March, 1866).

[3] *Ibid.*, p. 259 (March 3, 1866).

[4] 5 *Blatch.*, p. 315; same case, 3 *I.R.R.*, p. 143.

opinion that "an institution which has acquired a surplus fund will justly consider that fund as a part of its taxable capital."[1] The Treasurer first directed the national banks to treat a surplus as deposits and not as capital,[2] but as the Commissioner had instructed the state banks to class it as capital, the Treasurer changed his ruling so as to conform to that of the Commissioner.[3] It really made little difference, as far as the amount of the tax was concerned, under which head the surplus was classed, as the rate was the same on capital and deposits; but if it was treated as capital and the bank owned United States bonds to a larger amount than its chartered capital, some of the bonds would be deducted from the surplus, while if it was treated as deposits, such would not be the case.

Another question with regard to capital which required the special attention of the Commissioner was whether borrowed capital was subject to the tax. Mr. Webster, an assessor in New York City, held that banks should return for taxation all the capital (except that exempted by law) used or employed by them in the purchase or carrying of stocks or bonds, gold or bullion, for their customers, although the capital thus used was the proceeds of permanent or temporary loans. The contention of the banks was that they should return only the actual amount of free capital over and above all liabilities.[4] An appeal from the assessor's decision was taken by one of the leading Wall Street firms. The Solicitor of Internal Revenue was asked for an opinion, and on his agreeing with the assessor, the Commissioner confirmed the assessment.[5]

There was doubt in the minds of some bankers as to what should be done with the issues of state banks. Some

[1] *Bankers' Magazine* (New York), vol. 19, p. 616 (February, 1865).
[2] *Ibid.*, vol. 20, p. 653 (February, 1866).
[3] *Ibid.*, vol. 20, p. 729 (March, 1866).
[4] New York *Tribune*, January 28, 1869, p. 4, col. 5.
[5] *Commercial and Financial Chronicle*, vol. 8, p. 582 (May, 1869); same case, 9 *I.R.R.*, p. 126.

did not want to accept them at all, fearing they could not dispose of them without paying the ten per cent tax. The Commissioner decided that banks could receive such notes and send them to the bank which had issued them, without being liable for the tax.[1] However, the notes of a state bank could not be passed by another bank into the hands of a broker for the purpose of redemption, without the bank becoming liable for the tax. The act of passing the notes into the hands of the broker was paying them out.[2]

The question of the constitutionality of this law was carried to the Supreme Court in the case of Veazie Bank *v.* Fenno.[3] The Veazie Bank was an institution chartered by the State of Maine. It at first refused to pay the tax, and when proceedings were begun to collect by distraint, the bank paid it under protest and appealed to the Commissioner of Internal Revenues. When the Commissioner sustained the collector, suit was brought by the bank to recover the tax. It was contended that the tax was unconstitutional because, (1) it was a direct tax and not apportioned according to population; (2) the act imposing the tax impaired a franchise granted by the State, and Congress had no power to pass such an act. The court held that the tax was not a direct tax in the interpretation put upon that term by the Supreme Court in the case of Hylton *v.* The United States,[4] and that it fell in the same category as the case of the Pacific Insurance Company *v.* Soule,[5] which, the year before, was held not to be a direct tax.

To the objection that Congress had no authority for taxing a franchise granted by a State, the court held that the object of the tax was not the franchise of the bank, but

[1] *Bankers' Magazine* (New York), vol. 21, p. 223 (September, 1866).
[2] 5 *I.R.R.*, p. 74.
[3] 8 *Wall.*, p. 533; same case, 10 *I.R.R.*, p. 195.
[4] 3 *Dallas*, p. 171.
[5] 7 *Wall.*, p. 434.

the property created, or the contracts made and issued, under the franchise. It was insisted that the tax was so excessive as to destroy the franchise of the bank, and so was beyond the power of Congress. To this the court replied that, under the Constitution, the power to provide for the circulation of coins was given to Congress, and "it is settled, by the uniform practice of the government and by repeated decisions, that Congress may constitutionally authorize the emission of bills of credit. . . ." And that it has the power "to make them receivable in payment of debts to itself; to fit them for use by those who see fit to use them in all the transactions of commerce; to provide for their redemption; to make them a currency, uniform in value and description, and convenient and useful for circulation."[1] Bank notes might be considered bills of credit furnished by the Government, since they were issued by the Government and since the Government was responsible for their redemption. Therefore, the court held that, "Having thus, in the exercise of undisputed constitutional power, undertaken to provide a currency for the whole country, it cannot be questioned that Congress may, constitutionally, secure the benefits of it to the people by appropriate legislation. To this end, . . . Congress may restrain, by suitable enactments, the circulation as money of any notes not issued under its own authority."[2]

Of course this ten per cent tax on the circulation of state banks was not intended to be a source of revenue for the Government. When viewed from the standpoint of scientific revenue legislation, this tax has nothing to commend it. However, when attention is called to the effect it had in doing away with the great variety of state bank notes in circulation, it is readily seen that such legislation was highly beneficial.

In 1868 a bill was passed in the House containing sections for increasing the rate on deposits and circula-

[1] 8 *Wall.*, p. 548. [2] *Ibid.*, p. 549.

tion,[1] but when reported to the Senate, these sections were stricken out,[2] and the House concurred.[3] Although there was more or less opposition to them, especially on the part of bankers, the taxes on banks were continued down to 1883, when the tax on deposits and capital of both state and national banks was repealed.[4] The tax on circulation and on the paying-out of notes of state banks still remains on the statute books.

From one point of view this class of taxes was one of the most successful levied during the war. The returns were by no means insignificant, reaching nearly $10,000,000 in 1871,[5] and the expense of collection was exceedingly small. As the tax on national banks was paid directly to the Treasurer and that on state banks to the Commissioner of Internal Revenues, the only expense was the extra clerical force needed in these offices. The Treasurer said in 1868 that the duty on capital, deposits, and circulation was collected "without any expense to the Government."[6] This statement, doubtless, is a little extreme, as it is hardly to be expected that the same number of clerks would have been retained in the office if the tax had been collected otherwise.[7]

The statistics of these taxes show that the maximum amount paid by banks other than national was $4,940,870.90 in 1865,[8] and that after that year there was quite a rapid decline until 1868. After 1868 the revenue from this source gradually rose again. We also notice that the taxes on national banks rose rapidly through 1865, 1866,

[1] *Cong. Globe*, 2d Sess., 40th Cong., 1867–68, p. 3528, cols. 2–3.
[2] *Ibid.*, p. 3778, col. 3. [3] *Ibid.*, p. 4089, col. 2.
[4] Act of March 3, 1883, 22 *U.S. Stat. at Large*, p. 488.
[5] Table XII (Appendix). [6] *Finance Report* (1868), p. 226.
[7] Dr. F. C. Howe (*United States Tax System*, p. 110) says that the work in the Internal Revenue Office was handled by less than fifteen clerks, at an average annual cost of $20,000, but he cites no authority for the statement and there seems to be nothing in the reports of the Commissioner of Internal Revenues to substantiate it.
[8] Table XII (Appendix).

and 1867. This was doubtless due to the fact that during these years many of the state banks reorganized under national charters. By 1868 most of the state banks which thought it advisable to reorganize had done so, and consequently the returns from national banks did not increase so rapidly after that time. We find that after 1867 the taxes paid by both classes of banks gradually increased, due to more settled business conditions. The figures also show that the ten per cent tax on banks for paying out the notes of state banks had the effect, which had been expected, of driving these notes out of circulation. This law went into effect July 1, 1866, and the next year the tax paid on circulation by state banks fell nearly eighty per cent below what it had been the year before; and the next year (1868) it fell over eighty-five per cent below that of 1867. Of the three items on which taxes were paid, capital was the least remunerative, and in the case of state banks the largest amounts were paid on deposits, national banks paying about the same amounts on deposits and circulation.

It seems that these taxes were secured with as little complaint, trouble, and expense as any of the internal duties, and as they were never excessively high, except in the case of state bank notes, whether paid by the banks or shifted to their customers, they were never burdensome.

There were two ways by which the banks might have shifted part or all of their taxes. By lowering the interest rate they could have passed the burden on to those depositors who were receiving interest on their deposits; or by raising the interest rates to borrowers they could have relieved themselves of the burden. The evidence with regard to the interest paid to depositors is very meager. In fact, no quotations of rates seem to be available, but the testimony before the House Ways and Means Committee in 1877 and 1878, when bills for the repeal of

the tax were under consideration, seems to indicate that the banks bore the tax. John W. Daniel, a State Senator of Virginia, said at a hearing of the committee that "the tax is not laid on the owner of the money, nor upon the party who is certainly benefited by the deposit."[1] In the "Bankers' Magazine" (New York) we find the statement that "The profits of the banks can only be the small difference between what they pay (as interest on deposits) and what they receive from the same in discounts, after paying the United States tax."[2] The "Commercial and Financial Chronicle" in discussing the same question said, "An easy calculation would show that to the city banker the payment of interest and taxes on country deposits is unprofitable."[3] We are led to the conclusion that in the majority of cases the tax on deposits amounted to a deduction from the profits of the bank.

Professor Irving Fisher has compiled a table giving the average yearly interest rate since 1860, on prime, two-name, sixty days' paper at New York, as follows:[4]—

Year	Rate	Year	Rate	Year	Rate
1860	7.7	1869	9.1	1878	4.8
1861	6.6	1870	7.2	1879	5.0
1862	5.4	1871	6.1	1880	5.2
1863	5.8	1872	8.0	1881	5.2
1864	8.0	1873	10.3	1882	5.7
1865	8.2	1874	6.0	1883	5.5
1866	6.3	1875	5.5	1884	5.2
1867	7.2	1876	5.2		
1868	7.3	1877	5.2		

These figures show that in 1863, when the tax was first levied on banks, there was a slight increase in the interest rates. The next year, when the tax was extended and the

[1] *Bankers' Magazine* (New York), vol. 33, p. 5 (July, 1878).
[2] *Ibid.*, vol. 24, p. 668 (March, 1870).
[3] Vol. 2, p. 322 (March 17, 1866).
[4] *Rate of Interest*, pp. 419–20.

rates increased on deposits and circulation, interest rates show a decided increase, but in 1866, when there was no change in the tax, they dropped below what they had been in 1861. For several years the interest rates fluctuated rapidly, which would seem to indicate that they were affected largely by the depreciation of the currency and the general unsettled state of business. Therefore, it seems that the change in interest about 1883, when the bank taxes were repealed, would be a better indication of whether or not the tax was shifted, for business was no longer carried on on the greenback basis. If the banks had shifted the tax, we would expect interest rates to fall when the tax was repealed. The figures do show a slight decline in 1884, but the rate for this year was as high or higher than it had been at any time since 1875, except in 1882 and 1883.

The daily newspapers of 1863 and 1864, when the taxes were levied, do not give daily quotations on time loans. In 1883, when the tax was repealed, the quotations show practically no change in the rates for short-time paper. The rates are given only occasionally, but nearly every day we find the statement in the New York "Times": "Time loans and prime mercantile discounts are nominally unchanged." This evidence seems to indicate, therefore, that the banks did not shift the tax either to the depositor or to the borrower, but that it was borne by the stockholders, either in lower dividends or in reduced surplus.

The questions may be asked, If this is true, why did banks issue notes when they could not shift the burden to the borrower? Why did they not keep their circulation down until the demand was sufficient to raise the interest rate? The answer is to be found in the fact that the notes were secured by the deposit with the United States Treasury of bonds of the Federal Government, on which the banks were receiving interest. The National Banking Act

required that every bank chartered by the Federal Government should invest at least one third of its capital in United States bonds.[1] Since the bonds were already on deposit, and it cost the banks nothing extra to issue the notes, except the tax on circulation, they found the issue profitable even if they could not shift the tax to the borrower.

[1] Act of February 25, 1863, 12 *U.S. Stat. at Large*, p. 669.

CHAPTER VI

STAMP TAXES[1]

STAMPS had been used as a means of securing revenues for over two and a quarter centuries in other countries when this method of taxation was suggested for the United States in 1862. It seems that in Holland, at a time of dire necessity, the States-General offered a reward for the invention of a new tax, and some individual, in 1624, suggested the requiring of stamps on documents and writings having a legal operation or forming necessary steps in suits in the law courts. England adopted this method of raising revenues in 1694,[2] and America had its first experience with it under the Stamp Act of 1765.[3] After the adoption of the Constitution, the Federal Government had resorted to stamp taxes twice[4] before 1862. The majority of the people of the United States, perhaps, had never had any experience with such taxes, yet Secretary Chase did not suggest something entirely new when, in his report in December, 1861, he proposed to lay duties on "paper evidences of debt and instruments for conveyance of property."[5] The Ways and Means Committee in the bill which it reported to the House proposed to raise eight and one half million dollars, annually, by stamps.[6] The things on which stamps were to be required were divided

[1] By Act of July 20, 1868, 15 *U.S. Stat. at Large*, p. 125 *et seq.*, the taxes on spirituous and malt liquors and on tobacco were collected by means of stamps, but these will be treated under chapters VIII–IX.

[2] Palgrave, vol. III, p. 456.

[3] Bryant and Gray, *History of the United States*, vol. III, p. 338.

[4] Act of July 6, 1797, 1 *U.S. Stat. at Large*, p. 527, and Act of August 2, 1813, 3 *U.S. Stat. at Large*, p. 77.

[5] *Finance Report* (1861), p. 15.

[6] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 1197, col. 1.

into two classes called Schedules B and C.[1] Schedule B included written or printed instruments, and Schedule C included medicines and preparations, perfumery and cosmetics, and playing-cards.[2] In reporting the bill, Mr. Morrill, of Vermont, said that "Stamp duties have been in bad odor with us ever since England attempted to impose them on the American colonies without their consent."[3] But he thought that, practically, stamp duties upon legal and commercial documents and papers were as unobjectionable as any duties which could be collected.

Neither chamber of Congress spent much time discussing these duties, but both objected to a tax on bank checks. In the House it was said that it would "destroy the whole system of making deposits in savings banks and like institutions, which is of great advantage to the business community and to the depositors themselves."[4] Nevertheless, the House voted for a tax of two cents on all checks for sums of over $50.[5] The Senate voted for the two-cent tax without limiting it to checks for over $50.[6] When the bill was reported back by the conference committee a compromise had been reached leaving the rate at two cents and making it apply only to checks for more than $20.[7]

The portion of the law imposing stamp duties went into effect October 1, 1862. The penalty for failure to use stamps as required by law for articles in Schedule B was $50 and the document or paper was deemed invalid and of no effect; for the sale of articles in Schedule C, without

[1] There was a Schedule A in this law, but it provided for the levying of taxes on carriages, yachts, billiard tables, and gold and silver plate, and not for stamp taxes. Cf. *infra*, pp. 253–56.

[2] Table XIII in the Appendix gives a list of the stamp taxes with the changes made by different Acts of Congress.

[3] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 1196, col. 2.

[4] *Ibid.*, p. 1511, col. 2.

[5] *Ibid.*, p. 1513, cols. 1–2.

[6] *Ibid.*, p. 2518, col. 1.

[7] *Ibid.*, p. 2875, col. 1.

affixing thereto a stamp, the penalty was $10. The forging or counterfeiting of stamps or dies was made punishable by a fine not exceeding $1000 and imprisonment and confinement at hard labor not exceeding five years. Any person using a stamp, the die for which was furnished by the Government, was required to cancel it by writing his initials and the date on it, so that it could not again be used; and the penalty for failure to cancel such stamps was $50. Any person selling articles, requiring a stamp under Schedule C, had the privilege of furnishing his own dies or designs for stamps, to be approved by the Commissioner of Internal Revenues; and when such stamps were used it was required that they should be so affixed that in opening the package they would be destroyed. The penalty for a failure to do this was the same as for not using stamps.

Besides these general penalties, special penalties were provided for certain cases. Any person who made or issued a bill of exchange, draft, order, or promissory note, without affixing the proper stamp, was liable to a fine of $200; and the acceptor of a bill of exchange drawn in a foreign country was required to place the proper stamps on it or forfeit the sum of $100. The penalty on any telegraph company for receiving or transmitting a message without affixing a stamp to the copy, and on express companies for not stamping receipts, was $10. There was a difference made between mere failure to affix the proper stamps and attempt to evade the tax. Any manufacturer of articles in Schedule C, who tried to use a stamp the second time, was subject to a penalty of $50 and the articles were forfeited; if he tried to sell the articles without paying the duty, the penalty was $100 and forfeiture.

The Commissioner of Internal Revenues was given charge of and supplied all stamps, and when selling them to postmasters, collectors, or stationers was authorized to allow a

commission of not more than five per cent.[1] When a proprietor furnished his own design for stamps on articles in Schedule C, he was allowed five per cent commission if he purchased at one time from $50 to $500 worth of stamps and ten per cent on amounts over $500.[2]

There were two important provisos in the bill: (1) No writ, summons or other process issued by a justice of the peace, or in any suit commenced by the United States or by any State, was subject to a stamp duty, because such a tax would have amounted to a tax on the Federal or State Governments. (2) The stamp duties on manifests, bills of lading, and passage tickets did not apply to steamboats or other vessels plying between the United States and British North America.[3]

Almost as soon as this law went into operation it became necessary for the Commissioner to issue decisions and rulings with regard to its interpretation. He decided that "The person who *makes, signs, and issues* the instrument, is the only person who is authorized to affix the stamp required by the law"[4] and that when the maker of a document neglected to put on the required stamp, it would not do for the party receiving the same to affix the stamp;[5] that it was a violation of the law to receive any unstamped instrument.[6] This may have had some effect in preventing the maker from passing the tax on to the receiver of an instrument. The Commissioner, however, did not indicate

[1] Commissioner Boutwell issued regulations allowing the following commissions, *payable in stamps:* —

On purchase of	$ 50 or more,	2 per cent
	100	3
	500	4
	1000	5

(Estee, p. 281.)

[2] Act of July 1, 1862, 12 *U.S. Stat. at Large*, pp. 475–79.

[3] 12 *U.S. Stat. at Large*, p. 484.

[4] Redfield, *Handbook of Internal Revenue Laws*, p. 188.

[5] *Ibid.*, p. 189 (copied from New York *Transcript*, October 31, 1862).

[6] Boutwell (1863), p. 235.

that this thought influenced him at all in his decision, but rather that his idea was to adopt the best method to insure the payment of the tax.

The requirement of stamps on express receipts did not apply to all common carriers, but only to express companies, which the Commissioner defined as being companies which take parcels from the houses or places of business of the assignors and deliver them to the houses or places of business of the assignees.[1] All life insurance policies were subject to stamp duty when the policy was conditional that the assured was to pay a certain sum annually, or at any other stated period; receipts for such payments were not subject to stamp duty.[2] Telegraphic messages transmitted by telegraph or railroad companies over their own lines, for which they received no pay, were not taxable.[3]

There were a number of things upon which there was a question whether a stamp was necessary, and in the following cases the Commissioner decided in the affirmative: The renewal of a promissory note was subject to the same stamp as the original note.[4] All receipts of grain or other property held in storage in any warehouse were "warehouse receipts" within the meaning of the law and so subject to a stamp tax of twenty-five cents.[5] Legal documents drawn abroad, but operative in the United States, required stamps as though made in this country.[6] Checks drawn on a bank by a proprietor for his daily expenses or by an employee for his wages needed a stamp.[7] Official bonds of sheriffs, constables, executors, administrators, guardians, etc., came within the meaning of the first clause of Schedule B entitled "bonds" and were subject to a stamp duty of fifty cents.[8]

On the principle that the Federal Government could not

[1] Estee, p. 228. [2] *Ibid.*, p. 230. [3] *Ibid.*, pp. 252–53.
[4] Boutwell (1863), p. 339. [5] *Ibid.*, p. 340.
[6] *Ibid.*, p. 342. [7] *Ibid.*, p. 344. [8] *Ibid.*, pp. 339–40.

tax the State Governments, it was ruled that certificates, warrants, orders, or drafts, by one state official upon another for the purpose of carrying on the internal business of the State Government, were not subject to a stamp tax. The same rule was applied to the certificates, orders, etc., of county, city, or town officers.[1] Also checks of the state treasurers for money belonging to the State were exempt.[2]

An amendatory act to the Act of July 1, 1862, was approved December 25, 1862, which provided that all official documents of the United States were exempt from duty.[3] The Commissioner construed this to apply only to those documents and papers the duty on which, if paid, would be a charge upon the United States Treasury.[4] This same act provided that no instrument should be deemed or held invalid or of no effect for want of a particular kind of stamp. The only exception was that stamps for use on proprietary articles could not be used on legal instruments. Otherwise if a legal stamp covering the amount of the tax had been duly affixed, the instrument was good.

This act was further amended before the close of this session of Congress by slightly extending the list of articles subject to the stamp tax and by changing some of the rates.[5] In order to protect the home producer it was provided that any article which, if manufactured in the United States, would require a stamp, must be stamped, if imported, before it could be sold. The importer was deemed the manufacturer and so required to affix the stamp.[6] The stamp tax on express receipts was repealed and in its place a tax of three per cent on gross receipts of express companies was levied.[7] The reason for this change was that the affixing of stamps made an extra expense for the

[1] Estee, p. 252.
[2] Boutwell (1863), p. 345.
[3] 12 *U.S. Stat. at Large*, p. 632.
[4] Estee, p. 253.
[5] Cf. Table XIII (Appendix).
[6] Act of March 3, 1863, 12 *U.S. Stat. at Large*, p. 728.
[7] *Supra*, p. 113.

companies, as it necessitated hiring additional clerks. The companies, therefore, favored this change in the method of taxing them.[1]

As a substitute for, or in addition to, the method already prescribed by law[2] for cancellation of stamps, the Commissioner of Internal Revenues was authorized to prescribe such method as he deemed expedient and effectual.[3] He made no change in the method for a while, but in order to facilitate the operation, where there were many stamps to be canceled by one person, he gave authority to *imprint* the initials and date upon the stamp, *in ink*, instead of writing them. He said, "Cancellation by writing or imprinting the initials and date, in ink, . . . is not only the legal, but also the most effectual method against fraud, *and must be adopted.*"[4] He also decided that where stamps on proprietary articles could not be affixed so as to destroy them in opening the package, they could be canceled by the same method as other stamps.

In July, 1863, the Commissioner made an important ruling with regard to who might affix and cancel stamps. His letter reads, in part, as follows: "Any instrument which is subject to stamp duty should be stamped by the party executing the same *at the time it is executed. Each* of the stamps used should be canceled by the party of the first part. . . . If the party of the first part has failed to *cancel* the stamp or stamps, the party of the second part may, *before the instrument is used*, correct the error by affixing and canceling new stamps of the required value. The party of the second part may also *affix* as well as cancel the required revenue stamp or stamps to an instrument subject to stamp duty, if the party of the first part fails to do so, *providing* he, she, or they do so before the instrument *is used;* but the party of the first part has incurred a penalty

[1] *Cong. Globe*, 3d Sess., 37th Cong., 1862–63, p. 1341, col. 3.
[2] *Supra*, p. 147.
[3] 12 *U.S. Stat. at Large*, p. 721.
[4] 3 *I.R.R.*, p. 20.

of fifty dollars by failing to affix the stamp or stamps, and also a penalty of fifty dollars if he fraudulently fail to cancel the same."[1]

This ruling reversed the one previously mentioned,[2] which stated that only the maker of an instrument could stamp it. The earlier decision was rendered by Commissioner Boutwell and this one by Commissioner Lewis. The cause of the difference seems to be in the interpretation of when an instrument was used. Mr. Lewis implied that an instrument might not be used until some time after it had been delivered, but Mr. Boutwell said that it was used as soon as delivered.[3]

The Commissioner, in his report for 1863, praised the stamp taxes very highly. He said, "Among the most satisfactory branches of our excise law must be reckoned that which levies stamp duties on documents and instruments of evidence. This tax is, of all others, the most easily and cheaply collected and most cheerfully borne."[4] While he thought that some of the stamp duties were already heavy enough, there seemed to be little reason to doubt that some others might be increased to advantage. He suggested the extension of the tax to a number of other things, as receipts for payment of money, assignments and transfers of personal property, indentures of apprenticeship, bills of sale, articles of partnership, writs of execution, letters patent, certificates of copyright, diplomas of colleges and universities, and certificates of marriage. He recommended that the duties on promissory notes, inland bills, drafts and orders, mortgages, personal bonds, and on life, marine, and inland insurance policies, be doubled; that the words

[1] Boutwell (1863), p. 389. This decision was made by Commissioner Lewis, and Mr. G. S. Boutwell, a former commissioner, took issue with the Commissioner on this point. Mr. Boutwell was of the opinion that legally the only person who could affix and cancel a stamp was the signer or maker, and that an instrument was used as soon as delivered. *Ibid.*, p. 390.

[2] *Supra*, p. 148.

[3] Boutwell (1863), p. 390.

[4] *Finance Report* (1863), p. 70.

"exceeding twenty dollars" be stricken out of the clause relating to bank checks, drafts, or orders, and that writs, summons, and other processes for the commencement of action before justices of the peace, and writs of execution, issued by such justices for the seizure or sale of goods, be made subject to a small stamp duty.[1]

The requirement that certain documents be properly stamped before they could be used as evidence in court had worked some hardships, for two reasons: First, there were some cases in which the amount of the appropriate stamps was a matter of reasonable doubt; and, second, there were many more cases in which the parties to an instrument were unable to understand clearly the requirements of the law. The Commissioner, therefore, suggested that authority be given to the collector, on application of any party to a document, to affix to it the stamps which, in his judgment, were required by the law, with the right of appeal to the Commissioner by any person who did not agree with the collector's decision.[2] This suggestion was followed by Congress in the revenue law passed in June, 1864,[3] with the exception that no appeal was provided.

Mr. Morrill said, in reporting this bill for the Ways and Means Committee, that the purpose of the measure was to increase largely the revenues and to remove any doubt which might arise as to the proper interpretation of any part of the former law.[4] There were only a few changes made in the rates of stamp duties, but the number of things upon which stamps were required was considerably increased.[5] The only stamp taxes repealed by this act were on telegraph messages. In place of these a gross receipts tax was put on telegraph companies, because stamp

[1] *Finance Report* (1863), p. 71.
[2] *Ibid.*, p. 72.
[3] Act of June 30, 1864, 13 *U.S. Stat. at Large*, p. 295.
[4] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 1716, col. 3.
[5] Cf. Table XIII (Appendix).

duties on dispatches could not be equitably rated. There was also no simple mode of detecting whether stamps were used or not.[1]

The important point discussed in both chambers of Congress was with regard to the legal status of an unstamped instrument or document. By the previous law an unstamped instrument was invalid in court, but any instrument executed before January 1, 1863, might be stamped in court. In the House it was now proposed to make no paper invalid for lack of the proper stamps, but to depend on penalties in the form of fines for enforcement of the law. Mr. Ganson, of New York, said that he would prefer to rely on the patriotism of the people, but Mr. Boutwell was rather doubtful whether the spirit of patriotism was sufficient to make the people observe this law if there was no penalty other than a fine for its violation.[2] The bill, as passed by the House, provided that any instrument which had not been stamped when made could be stamped in court on payment of the penalty, and the instrument would not be invalid. When the bill went to the Senate, the same question came up, and Mr. Fessenden said: "No penalties that you impose will protect the revenue with reference to stamp duties. In the first place, it is nobody's interest to enforce them, and it is impossible almost to enforce the great multitude of them that would occur. You must therefore have some sharp, short, and decisive argument to apply to every man to induce him not to attempt to defraud the revenue in this way."[3] The Senate finally amended the bill, making it unlawful to record an unstamped instrument or document and making the record of any such instrument utterly void and not usable as evidence;[4] but if the instrument had been used before the passage of this act, failure to stamp it did not make it

[1] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 1717, col. 2.
[2] *Ibid.*, pp. 1882–84.
[3] *Ibid.*, p. 2519, col. 1.
[4] 13 *U.S. Stat. at Large*, p. 292.

invalid, providing it was brought into court and stamped.[1] The House concurred in this change.

Most of the penalties were left unchanged by this law,[2] but the fine for failure to use stamps on instruments in Schedule B was raised from $50 to $200. The fine imposed on an acceptor of a foreign bill of exchange if he did not stamp it was raised from $100 to $200.[3] One new penalty was added and was made to apply to articles in both schedules. This law provided that for attempting to remove the cancellation from a stamp so that the stamp could be used a second time, and for counterfeiting stamps, the penalty should be forfeiture of the article and stamp, together with $1000 fine or five years' imprisonment at hard labor, or both.[4]

The most of the law with regard to stamp taxes was left unchanged after the passage of this act until repealed in 1872. The Commissioner recommended to the second session of the Thirty-eighth Congress "that a judicious enlargement of Schedule B, to embrace instruments of evidence not described in it, would be preferable to any other mode of taxation equally fruitful of revenue";[5] but Congress did not extend the list. The only change of importance made during this session was the reduction of the penalty on persons making, signing, or issuing any instrument, or accepting any bill of exchange or promissory note, from $200 to $50.[6]

Although the law itself remained practically unchanged for eight years, there were numerous decisions, interpreting it, made by the Internal Revenue Commissioners. Some of these taking effect in 1865 were, "'Bonds' and 'Notes' given by counties, cities, or towns, are exempt from stamp duty, inasmuch as the use of stamps in such cases would be

[1] 13 *U.S. Stat. at Large*, p. 295.
[2] Cf. Table XIV (Appendix).
[3] 13 *U.S. Stat. at Large*, p. 294.
[4] *Ibid.*, p. 292.
[5] *Finance Report* (1864), p. 66.
[6] Act of March 3, 1865, 13 *U.S. Stat. at Large*, p. 481.

a charge upon the public treasury."[1] Where a mortgage contained a power of attorney to sell, it was subject to a stamp duty as a power of attorney in addition to the duty required upon it as a mortgage.[2] A mortgage, if made before the law was passed, was not subject to a stamp tax, but if it was assigned after the passage of the law it became liable to a duty on its value at the time of the assignment.[3] Bills of lading made in duplicate and triplicate each require a stamp, at the same rate as the original.[4] When the manufacturer of playing-cards affixed stamps appropriate to the price per pack at which he sold them, the subsequent vendor was not required to affix any additional stamps, whatever the price might be at which he offered them.[5]

Commissioner Rollins in his report for 1865 criticized the stamp tax rather severely. He said: "While the results of its administration are, perhaps, more satisfactory than those of most other parts of the law, yet evasion and violation are frequent, and, though the amount lost to the revenue may be small in the individual instances, it is large in the aggregate." He thought this was partly due, perhaps, to poor administration, but mostly to the inducement to evasion afforded by the phraseology of the law; and that if it were not for the inconvenience the change might inflict, it would be wise to dispense entirely with adhesive stamps and substitute stamped parchment or paper. Under the existing law there was no penalty for neglect to use stamps when it could be shown that there was no desire to evade the tax. He thought that sufficient time had elapsed for every one to be familiar with the law and that it would not be unreasonable to provide for a penalty in case of simple neglect.

The Commissioner said, further, that the provision of the Act of June 30, 1864, which gave to the collector the

[1] 3 *I.R.R.*, p. 14; also Emerson, p. 270.
[2] 2 *I.R.R.*, p. 45.
[3] 2 *I.R.R.*, p. 29.
[4] 2 *I.R.R.*, p. 132.
[5] 2 *I.R.R.*, pp. 126, 132.

right to determine the rate of duty in certain cases,[1] was one of importance to the revenue, but sometimes of embarrassment to his office. Different collectors decided similar questions in different ways and sometimes at variance with the opinion of the Commissioner. Yet the decision of the collector was final. This was an incongruity in the administration of the law which should not exist, and to remedy it he suggested the right of appeal to the Commissioner from the decision of the collector.[2]

The Special Revenue Commission which made its report in January, 1866, did not agree with Commissioner Rollins with regard to evasion of the stamp tax. The report said: "No part of the revenue is probably collected so easily, with such small expense, and with comparatively so little fraud, . . . as that derivable from stamps."[3] And further, speaking of counterfeiting of stamps, it said, "*We have yet to hear of the first successful counterfeit of an adhesive revenue stamp.*"[4]

Congress did not follow either of the suggestions of Commissioner Rollins, to provide a penalty for simple neglect, or for a right of appeal to the Commissioner, but on the other hand made it more easy to evade the law by providing that if an instrument was not stamped when made, any party interested in it might appear before the collector, pay for the stamp and $50 penalty, and get the instrument stamped. The change in the law further provided that if it was shown to the satisfaction of the collector that there had been no willful design to defraud the Government, the penalty might be remitted.[5]

The Commissioner in his report mentioned the fact that he had given a liberal construction to the portion of the law exempting official documents of the United States from

[1] *Supra*, p. 153.
[2] *Finance Report* (1865), p. 89.
[3] *Ex. Doc. No. 34*, 1st Sess., 39th Cong., 1865–66, p. 29.
[4] *Ibid.*, p. 30.
[5] Act of July 13, 1866, 14 *U.S. Stat. at Large*, p. 143.

the stamp duty, by making the same exemption apply to instruments of States, counties, and towns.[1] This construction was now sanctioned by act of Congress.[2]

Complaint had been raised by photographers that certain pictures were ruined by the stamps which they were required to put on them. In October, 1864, for relief in such instances, the Commissioner had given permission to omit the stamp, provided a return was made to the assessor of the number and value of the pictures, with the required stamps affixed to it. This was done with the expectation that Congress would change the requirements of the law; but as no change was made in April and May, 1865, the Commissioner revoked this privilege.[3] The bill which the Committee on Ways and Means reported to the House in April, 1866, included a tax on "photographs, ambrotypes, daguerreotypes, and other sun pictures," but on the motion of Mr. Myers, of Pennsylvania, this clause was stricken out,[4] and a five per cent *ad valorem* tax was levied on the production of such articles.[5] Besides this change made in taxing photographs, some of the other stamp duties were repealed.[6]

Under the impression that there was little revenue secured from the small stamps, Mr. Price, of Iowa, proposed, "That all stamps upon checks, notes, receipts, bills of exchange, certificates, and contracts of ten cents and less be dispensed with and abolished after the 1st day of October, 1866."[7] Mr. Morrill said that there was no inconvenience connected with the use of these stamps and that they produced "ten times more" revenue than the larger stamps.[8] The Special Revenue Commission had reported "that *six sevenths* of the entire consumption [of stamps]

[1] *Finance Report* (1865), p. 88.
[2] 14 *U.S. Stat. at Large*, p. 141.
[3] 1 *I.R.R.*, pp. 149, 155.
[4] *Cong. Globe*, 1st Sess., 39th Cong., 1865–66, p. 2810, cols. 2–3.
[5] *Ibid.*, p. 2811, col. 1.
[6] Cf. Table XIII (Appendix).
[7] *Cong. Globe*, 1st Sess., 39th Cong., 1865–66, p. 2811, col. 1.
[8] *Ibid.*, p. 2811, col. 1.

consist of the two-cent bank-check and receipt stamps, the various proprietary stamps, and of the one-cent stamps required to be affixed to matches."[1] Mr. Price's amendment was not adopted.

During the next six years there was little legislation on stamp taxes. A few changes were made in rates, and a few of the duties were repealed, but in its most important points the law was left unchanged. Special Commissioner Wells in his report for 1867 recommended that changes be made in the method of cancellation, so as to prevent fraud, and that the law be amended so as to state definitely who was to affix and cancel the stamp on a receipt.[2] The fact that the law did not state whether the maker or the receiver of a receipt should be responsible for the stamp seems to have led to much fraud. The "Internal Revenue Record" said that there were few provisions of the internal revenue statutes which were more uniformly and persistently violated than the tax on receipts, either through neglect or willful action.[3] Nevertheless, Congress took no action on these subjects.

Although there was little legislation on this subject from 1866 to 1872, there were numerous opinions rendered by the Internal Revenue Commissioners and the various courts. Only a few of the more important of these will be cited.

Instruments issued after October 1, 1862, in the States which were in insurrection, were subject to the same taxes as similar ones issued at the same time in other States.[4] Failure to cancel the stamp did not invalidate the instrument.[5] A receipt given for the delivery of goods was not an agreement within the meaning of the law and hence not subject to the stamp tax.[6] Domestic bills of lading

[1] *Ex. Doc. No. 34*, 1st Sess., 39th Cong., 1865–66, p. 30.

[2] *Report of Special Commissioner of Revenues* (1867), pp. 39–40.

[3] 3 *I.R.R.*, p. 169.

[4] 5 *I.R.R.*, p. 59.

[5] Corry National Bank *v.* Rouse, 3 *I.R.R.*, p. 31; Adams *v.* Dale, 29 *Ind.*, 273.

[6] U.S. *v.* Baltimore & Ohio Railroad Co., 8 *I.R.R.*, 148.

were not taxed as "bills of lading," but as receipts or agreements, depending on whether they were merely receipts or contracts. When they were made in duplicate or triplicate, a stamp was required on each.[1] A marriage certificate when issued by the officiating clergyman or magistrate, to be returned to any officer of a State, county, city, or town, to constitute a part of the public records did not need a stamp, but if it was to be retained by the parties a five-cent stamp was necessary.[2] A new promissory note, substituted for another which had been destroyed after it had been properly stamped, did not need to be stamped, but notice of the fact was required on the new note. However, when new notes were issued in place of old ones which had been taken up, and if the new notes had different dates from those they replaced, or were otherwise changed, they needed to be stamped.[3]

There were some instruments which did not clearly fall into any of the classes designated for taxes in Schedule B. The United States Supreme Court held that in such cases there was doubt as to the liability of such instruments to taxation, and the construction should be in favor of exempting them, because a tax could not be imposed without clear and express words for that purpose.[4] In the case of Campbell *v.* Wilcox, the same court rendered the opinion that the accidental omission to stamp an instrument did not make a person liable to a penalty, but only when the stamp was omitted with intent to evade the provision of the act.[5]

Numerous questions came up with regard to the effect of the stamp tax on State Governments. It was held that judicial processes, being under the control of the States, were not taxable by the Federal Government.[6] A tax deed

[1] 3 *I.R.R.*, pp. 37 and 133.
[2] 5 *I.R.R.*, p. 60.
[3] 4 *I.R.R.*, p. 182.
[4] U.S. *v.* Isham, 17 *Wall.*, p. 496.
[5] 10 *Wall.*, p. 421.
[6] Craig *v.* Dimock *et al.*, 9 *I.R.R.*, 129; Warren *v.* Paul, 22 *Ind.*, 276; Fifield *v.* Close, 15 *Mich.*, 505.

for land sold for taxes did not need to be stamped.[1] No stamp was required on a bond given by a sheriff to a State for the faithful performance of official duty.[2] Bonds issued by cities or towns to aid in the construction of railroads, or to purchase stock therein, were not considered as issued by municipal officers, and so were liable to the stamp tax as promissory notes.[3]

The taxes levied in Schedule C did not require so many decisions as did those in Schedule B. But the druggists and the Commissioner of Internal Revenues differed somewhat with regard to what medicines required stamps. Soon after the law went into effect the Commissioner indicated what medicines he expected to be stamped. He said that no stamp tax was imposed upon medicines sold to or for the use of any person which may be mixed and compounded for such person according to the written prescription of a physician. But all medicines put up in a style or manner similar to that of patent or proprietary medicines in general, and advertised as having any special proprietary claims or merit, should be stamped.[4]

Many reductions were made by Congress in the internal taxes after the close of the war, but most of the stamp duties were left unchanged until 1872. Then the House Ways and Means Committee, in a combined tariff and internal tax bill, proposed that part of the stamp duties be repealed and part retained. The Senate amended the House bill by repealing all the stamp taxes in both Schedules B and C.[5] In the conference committee it was agreed to strike out the proposals of both houses, and to repeal all of the taxes in Schedule B except those on bank checks,

[1] Sayles *v.* Davis, 22 *Wis.*, p. 217.

[2] State *v.* Garton, 4 *A. L. Rev.*, p. 396.

[3] 11 *I.R.R.*, p. 169.

[4] Boutwell (1863), pp. 276–77. The same opinion is expressed in a letter of Commissioner Douglass to Mr. A. P. Tutton, of Philadelphia, dated September 9, 1873, and published in the *Report* of the Philadelphia Drug Exchange; also in 9 *I.R.R.*, p. 166.

[5] *Cong. Globe*, 2d Sess., 42d Cong., 1871–72, p. 4000, col. 1.

drafts, and orders, and to retain unchanged all those in Schedule C.[1] This repeal went into effect October 1, 1872.[2] In 1883 those which had been retained were repealed.[3]

The term "stamp tax" does not designate a distinct and separate kind of tax, but rather a method by which taxes were collected. This method of collection may be used for very different taxes, as is shown by an examination of the different things on which stamps were required by these laws. This method was adopted because it made collection easy, and because it rendered apportionment of the tax according to the value of the thing taxed comparatively easy, especially when numerous articles of small value were subject to the tax.

Such statements as are obtainable from the time when these taxes were in operation seem to indicate that they were among the most satisfactory of all the revenue measures adopted by Congress. The newspapers had practically nothing to say either for or against the tax, and in the congressional debates on revenue measures the stamp taxes called for little discussion. However, the officials praised them highly. We have already quoted Commissioner Lewis in praise of them.[4] His successor, Mr. Rollins, in discussing the law relating to stamp duties, said, "The results of its administration are, perhaps, more satisfactory than those of most other parts of the law."[5] The Special Revenue Commission expressed a similar opinion in the report of 1866.[6]

Few, if any, of the taxes were excessive, and yet they were the source of a very considerable amount of revenue, being placed largely on those transactions which were frequent. Unlike most of the other taxes, they were productive the first year they were in operation. In 1863 over

[1] *Cong. Globe*, 2d Sess., 42d Cong., 1871–72, pp. 4188, col. 3, to 4189, col. 1.
[2] Act of June 6, 1872, 17 *U.S. Stat. at Large*, p. 256.
[3] Act of March 3, 1883, 22 *U.S. Stat. at Large*, p. 488.
[4] *Supra*, p. 152.
[5] *Finance Report* (1865), p. 88.
[6] *Ex. Doc. No. 34*, 1st Sess., 39th Cong., 1865–66, p. 29.

ten per cent of all the internal taxes were paid on stamps, and although this proportion was not maintained, even in 1866, the year of the largest collections of the internal taxes, the stamp taxes produced over four and one half per cent of the total. The largest absolute amount of stamp taxes collected was $15,611,003.43, in 1870.[1] The receipts for 1865 exceeded those of 1864 by more than $5,000,000, which was due largely to the extension of the number of articles subject to the tax by the Act of June 30, 1864. The excess of 1866 over 1865 was nearly $4,000,000, probably due, in a large part, to the fact that few stamps were used in the Southern States until after the close of the war. After the repeal of part of the taxes in 1872, the revenues from this source fell off more than half.

Notwithstanding the many favorable things that may be said about these taxes, there are some objections which may be urged against them. Some of the rates were, perhaps, excessive, as, for example, the tax on mortgages. After 1864 it was $50 for every $500 value of the mortgage, and if the mortgage was renewed the tax was repeated. This rate, perhaps, would not be too high for some transactions, but when we consider that many mortgages were made because of distress and under circumstances when ready money was necessary, it becomes apparent that some hardships were liable to result.

Another objection was the annoyance some of them produced. The small tax on checks, drafts, etc., probably did not interfere excessively with trade; but Mr. Morrill's statement, in 1866, that "the inconvenience which existed when the law was first enacted no longer exists,"[2] was also probably an exaggeration. As much of the business in the United States was on a credit basis and many payments of money were made by means of checks, the two-cent tax on all checks for sums over $10 and on all receipts for sums

[1] Cf. Table XV (Appendix).

[2] *Cong. Globe*, 1st Sess., 39th Cong., 1865–66, p. 2811, col. 1.

over $20, doubtless kept the credit system from developing as freely and as rapidly as it otherwise would have done.

This objection cannot be urged against the heavier taxes, as those on probate of wills, deeds, etc., for these are not acts of daily occurrence with so large a proportion of the population, as is the making of checks and receipts. Also such a tax has more the nature of a fee for service rendered, and the rates were sufficiently low not to interfere seriously with any business of this kind.

The provision in the law which authorized the Internal Revenue Commissioner to grant a discount to persons purchasing $50 worth or more of stamps at one time worked a great injustice, especially to the producers of articles in Schedule C. This is well illustrated by the effect the tax had on the match industry. The tax was repealed in 1883,[1] and in reporting the bill for the repeal to the House, Mr. Kelley, of Pennsylvania, said: "The business, under the patronage of the Government, by cruel law has passed into the hands of a few wealthy men or firms. They have driven out all small manufacturers. The Government lends them the money on which to carry on much of their current trade, and sells them their stamps at a reduction of ten per cent against the poor man who might manufacture matches enough to use up forty-nine dollars' worth of stamps. It makes a reduction of ten per cent on these stamps, and it gives these wealthy manufacturers sixty days to pay for the stamps, and in that time they may turn over their trade."[2]

In the Bulletin of the Bureau of Labor we find the statement: "During the decade 1860 to 1870, however, a new influence began to affect the match industry. As a result of the civil war the Federal Government required manufacturers of matches to place a one-cent revenue stamp on each ordinary small box of matches. A discount was given to manufacturers who purchased stamps in large

[1] Act of March 3, 1883, 22 *U.S. Stat. at Large*, p. 488.
[2] *Cong. Rec.*, vol. 13, part 5, p. 5192, col. 2.

quantities, and the discount increased with the amount of the purchase. . . . Formerly it was a simple matter for any one to manufacture matches in a small way in the home or a little shop, but the entire business fell into the hands of a monopoly."[1] It is questionable whether the monopolizing of the industry was entirely due to the stamp tax, but it very probably had an important influence. This same influence was felt, though perhaps not to so great an extent, in other industries.

Dr. F. C. Howe says, with regard to evasion of the law, "From 1865, down to the complete repeal of the tax, the observance of the tax improved, and the law was all but universally observed."[2] The evidence furnished by Special Commissioner Wells and Commissioners C. Delano and J. W. Douglass would seem to indicate that this was too sweeping a statement. In his report for 1867, Mr. Wells said that the stamp tax ought to produce at least $25,000,000[3] revenue, while the actual return was only $16,094,718, and the next year it fell to $14,852,252. Mr. Delano, in 1869, reported: "The one salient point, however, that we fail to collect as much revenue as our system ought to yield, cannot be ignored. . . . One undoubted cause is that parties frequently omit to stamp instruments required to be stamped by law. This is the result of negligence, frequently, and often of design."[4] And again in 1871 Mr. Douglass said, "It is well known that the revenue derived from stamps has seriously suffered through the fraudulent re-use of stamps."[5] While it doubtless is true, as was the case with the other tax laws so with this, that the longer it was in operation the less it was violated, yet it can hardly be said that it "was all but universally observed."

[1] *Bulletin of the Bureau of Labor*, vol. 20, pp. 42–43. R. T. Ely expresses the same opinion in his book, *Taxation in American States and Cities*, p. 84.

[2] *Tax System of the United States*, p. 125.

[3] *Report of Special Commissioner of Revenues* (1867), p. 39.

[4] *Finance Report* (1869), p. 12. [5] *Finance Report* (1871), p. 56.

CHAPTER VII

LICENSES OR SPECIAL TAXES[1]

THE tax upon gross receipts of corporations, as has been said, was not made to apply to all kinds of business, but only to a limited number, specifically named in the law.[2] Most other corporations, as well as professions and occupations, were assessed a specific lump sum. With a few exceptions[3] the amount of this special tax was set entirely independently of the earnings or amount of business of the person or corporation taxed.

The Secretary of the Treasury did not include licenses among his proposals for taxation in 1861, but when the House Ways and Means Committee introduced a bill for internal taxes, in March, 1862, they went much further in the matter of taxation than the Secretary had suggested, and among other things proposed to raise about $3,000,000 annually by licenses.[4]

In reporting the bill for the committee, Mr. Morrill said that this kind of licenses had first been applied in England in 1784 to bricklayers, but had not been generally adopted in this country.[5] This was true as far as the Federal Government was concerned and also as regards the State Governments in the Northern States, but in the Southern States as expenditures increased "the license or privilege

[1] From 1862 to 1866 these taxes were known as "license taxes," but after the latter date they were called "special taxes." Cf. *infra*, p. 176.

[2] *Supra*, p. 108.

[3] In the case of rectifiers, distillers, brewers, hotels, billiard-halls and bowling-alleys, peddlers and photographers, the amount of tax was determined partly by the amount of business done. 12 *U.S. Stat. at Large*, pp. 456–59.

[4] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 1197, col. 1.

[5] *Ibid.*, p. 1195, col. 2.

system was established, which levied a fixed charge on well-nigh every occupation."[1] Mr. Morrill said further that the strongest objection to the system was "the novelty imposed upon any lawful occupation of obtaining a license from national authority for its existence; but this objection nearly vanishes when it is considered that a license is not so much a permit for carrying on the business as a recognition of the trade and a designation of the premises in which the business is to be conducted."[2]

Little or no objection was raised to license taxes in either the House of Representatives or the Senate. What debate there was in the House centered mostly around the question of the rates to be charged for liquor licenses,[3] and whether one man or one corporation doing the business both of a banker and of a broker should be required to hold a license for each business.[4] The main opposition in the Senate was to the requiring of a license of cattle brokers and horse dealers, and of manufacturers.[5]

The law, as finally passed, specified thirty-three trades or occupations, which after August 1, 1862, might not be exercised until a license had been obtained.[6] The penalty for carrying on a trade without a license was three times the amount of money imposed for such license. To secure a license the person or firm applying had to register with the assistant assessor of the district the name, kind of business, place where it was to be carried on, and, if a rectifier, the number of barrels he designed to rectify; if a peddler, how he intended to travel; and if an innkeeper, the rental value of the property he intended to occupy. Then on the payment of the tax to the collector or assistant collector the license was issued. Also the act required that where any person pursued more than one trade or occupation, he

[1] Seligman, *Essays in Taxation*, 7th. ed. p. 20.

[2] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 1195, col. 2.

[3] *Ibid.*, p. 1305 *et seq.* [4] *Ibid.*, p. 1325. [5] *Ibid.*, pp. 2309–11.

[6] Table XVI in the Appendix gives a list of all the license taxes, showing the changes made by different acts of Congress.

should take out a license for each,[1] except where the law provided otherwise.[2]

Certain exemptions were allowed. When the annual gross receipts of apothecaries, confectioners, eating-houses, tobacconists, or retail dealers did not exceed $1000 annually, no license was required. Manufacturers or producers who sold their own products at the factory or place of production were not required to take out licenses as dealers; nor were apothecaries, as to wines or spirituous liquors which they used exclusively in the preparation of medicines. There was also a section stating that this act did not authorize any act in any State prohibited by the laws of that State.[3]

As there were so many trades and occupations affected by this law, many interpretations were necessary by the Commissioner of Internal Revenues. The act had stated that, unless specifically exempted, any person carrying on two or more different kinds of business must take out a license for each. The Commissioner decided that a lawyer acting as a claim agent must take out another license;[4] and an inn- or hotel-keeper must pay an additional license fee if he retailed spirits;[5] a circus proprietor having taken out a license as such could not include other distinct shows for which a separate ticket was sold, but must take out a separate license for each; also a license granted in one State did not authorize the holder to exhibit his circus outside of the State in which the license was granted.[6] Incorporated banks doing the business of a broker were required to take

[1] Act of July 1, 1862, 12 *U.S. Stat. at Large*, pp. 453–54.

[2] The exceptions to this rule were: Wholesalers could sell at retail; keepers of eating-houses could sell confections; wholesalers, retailers, and hotel-keepers could sell tobacco; livery-stable keepers could deal in horses; wholesalers and retailers could sell drugs; manufacturers of agricultural tools, garden seeds, stoves, hollow ware, brooms, wooden ware, and powder could sell by agents at other places than the factory without extra licenses.

[3] Act of July 1, 1862, 12 *U.S. Stat. at Large*, p. 459.

[4] Boutwell (1863), p. 307. [5] *Ibid.*, p. 270. [6] *Ibid.* p. 313.

out a broker's as well as a banker's license.[1] A publisher of a newspaper was required to have a dealer's license to sell his papers upon the premises, and subscriptions received at the office and delivery of the papers by mail or otherwise was regarded as a sale from the premises. However, if a publisher disposed of his papers exclusively through a commission house, he was not required to have a license.[2] A licensed manufacturer was permitted to sell his own products at the factory without license as a dealer, but if he received other goods, wares, or merchandise for sale, he became liable for a dealer's license.[3]

One question which required several decisions was as to who should be required to take out license as a peddler. The Commissioner decided that a farmer who sold the products of his own farm, while traveling from house to house, was not a peddler; but a person who bought and sold as an occupation and did business while traveling from house to house, or place to place, must take out a license as a peddler.[4] The milk of a farmer's cows was considered as among the products of his farm, and he could sell it without a license; but a person who kept cows and made the sale of milk an occupation was required to have a license.[5] Dealers in ice, who supplied customers from carts or wagons and collected bills at certain intervals, did not need licenses as peddlers, since they traveled from place to place for the purpose of delivery and not for selling. This same principle applied to grocery, bakery, and butcher's carts.[6] Itinerant vendors of maps, books, and pamphlets, other than newspapers, Bibles, and religious tracts, were classed as peddlers.[7]

A boarding-house was not taxable as a hotel. The distinction made was that hotels were open to all who chose to enter, without previous stipulation, while boarding-

[1] Estee, pp. 236 and 262.
[2] *Ibid.*, p. 235.
[3] Boutwell (1863), p. 317.
[4] *Ibid.*, pp. 230 and 318.
[5] *Ibid.*, p. 319.
[6] Estee, p. 226.
[7] *Ibid.*, p. 255.

houses were open only to those who, by previous arrangement, had acquired a right to entertainment.[1]

In securing a license, a man was required, as has been said,[2] to state the place where he intended to exercise his trade or profession. The holder of the license, if he desired to remove to some other place, was required to get the permission of the assessor and to have the collector indorse the permission on the license. If he removed to another district, it became his duty to present the indorsed license for record to the assessor of the other district.[3]

Commissioner Boutwell, in order to prevent evasion of the tax, instructed the assessors that, in case any parties engaged in any kind of business requiring a license neglected or refused to make application therefor, they should assess such persons by the usual entry upon the assessment books.[4]

When the Internal Revenue Act was amended in 1863, several changes were made with regard to licenses.[5] The rates applied by the previous law were left unchanged in all cases, except on wholesale dealers and wholesale liquor dealers. In these two cases they were graduated according to the amount of business done. Also the license tax was made to apply to several new trades and professions.[6] Another change, proposed in the House, was to allow hotels and eating-houses to sell liquors without an extra license. This was objected to in the form in which it was presented because it would permit them to sell spirits as any retail dealer in liquors.[7] Therefore, the amendment as adopted read, "No person who has taken out a license to keep a hotel, inn, or eating-house under this law, shall be required to take out a license as a retail dealer in liquors, or as a tobacconist, because of any beverage or tobacco and

[1] Boutwell (1863), p. 313.
[2] *Supra*, p. 167.
[3] Estee, p. 272.
[4] Boutwell (1863), p. 173.
[5] Act of March 3, 1863, 12 *U.S. Stat. at Large*, pp. 714–16 and 727–28.
[6] Cf. Table XVI (Appendix).
[7] *Cong. Globe*, 3d Sess., 37th Cong., 1862–63, p. 1298, col. 1.

cigars furnished in the usual course of the business as a keeper of a hotel, inn, tavern, or eating-house."[1]

The Act of 1862 had provided that a license was good only for the place specified therein,[2] and the Commissioner of Internal Revenues had decided that while a lawyer might temporarily go into another State or county to argue a case or give advice, yet, if he removed with the design of permanently locating, he must take out a new license for the new location.[3] By the amended act this limitation was removed, and any lawyer, physician, surgeon, or dentist was allowed to practice his profession "within or beyond the limits of the district where licensed."[4]

One other change of importance that was made was in making more severe the punishment for knowingly exercising a trade or profession without a license. In lieu of or in addition to the penalty already provided, at the discretion of the court, an offender could be imprisoned for a term not exceeding two years.[5]

Commissioner Lewis in his report in December, 1863, suggested that the license system was capable of slight extension, and, perhaps, required it in order to make it operate equitably. He thought that some other trades or professions which might be required to take out a license were conveyancers, produce brokers, owners and keepers of race-horses, and persons whose business it was to contract for the letting of houses and to collect rent for others.[6]

There was one license tax which the Commissioner considered was too high to secure the desired results. This was the $1000 tax on lottery-ticket dealers. It yielded almost no revenue and at the same time it did not prevent the sale of tickets. To the evil of gambling the high rate of tax added the evil of habitual breach of the law. Therefore,

[1] *Cong. Globe*, 3d Sess., 37th Cong., 1862–63, p. 1315, col. 1.
[2] Act of July 1, 1862, 12 *U.S. Stat. at Large*, p. 454.
[3] Estee, p. 219.
[4] 12 *U.S. Stat. at Large*, p. 727.
[5] *Ibid.*, p. 727.
[6] *Finance Report* (1863), p. 74.

he suggested that the rate be reduced to what would be considered moderate for hurtful luxuries.[1]

The Ways and Means Committee reported to the House a bill in April, 1864, proposing many changes in the revenue laws. It was intended to repeal some of the existing license taxes, to change some, and to add some new ones. In order to make it more convenient for the public to determine what was taxable and what the rates were, all the internal taxes which were to remain in force after the passage of this act were put into the bill.[2] Most of the license taxes were left unchanged, but a few were lowered and several new professions and trades were included.[3] Mr. Morrill said the list had been extended not so much for revenue purposes as to fix and locate the trade, business, and profession of all parties and to protect them therein, "but the present bill is so general — embracing so nearly everybody and everybody's wife — that it will yield a large revenue."[4]

In the House of Representatives the most of the debate on licenses was over the question whether keepers of hotels, taverns, and eating-houses should be required to take out an extra license if they retailed liquors. This same question had been up the year before and a compromise was reached by which a keeper was not required to take out an extra license in order to supply beverages or tobacco to his guests.[5] The bill reported by the committee on Ways and Means proposed to retain this part of the law unchanged. In the House an amendment was offered to require an extra license. It was said that as a license to conduct an eating-house or cheap hotel was cheaper than a retail liquor dealer's license, there were many such places whose principal business was the retailing of spirits.[6] The amend-

[1] *Finance Report* (1863), p. 72.
[2] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 1716, col. 3.
[3] Cf. Table XVI (Appendix).
[4] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 1717, col. 2.
[5] *Supra*, p. 170.
[6] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, pp. 1817–18.

ment as adopted was more restrictive than the previous law had been, for it provided: "That nothing herein contained shall be construed to exempt keepers of hotels, taverns, and eating-houses in which liquors are sold by retail, to be drunk upon the premises, from taking out a license for such sale, for which license they shall pay a tax of twenty-five dollars."[1]

The question over which there was the most discussion in the Senate was whether Congress had the authority to license any industry in a State, where that industry was prohibited by state law. Many of the States had laws prohibiting lotteries and yet the lottery business continued to thrive. Some Senators held that the Federal Government by requiring a license to be taken out in such cases would authorize a particular business or profession to be carried on against the laws of the State.[2] Mr. Fessenden, Mr. Sherman, and other Senators contended that granting the license did not authorize the business, but only acknowledged that it existed. Mr. Fessenden said that by a clause in the bill which read, "Nor shall any person carrying on any trade, business, or profession, for which a license is required by this act, be exempt from procuring such license or from any penalty or punishment herein provided, by or in consequence of any state law either authorizing or prohibiting such trade, business, or profession," the Government substantially said to the applicant for a license, "You must take your risk about this; our license shall not justify you in breaking the state laws; we will give you one which will excuse you so far as we are concerned, but you must proceed at your own hazard in regard to the state laws."[3] Mr. Johnson, of Maryland, moved to strike out the words "or prohibiting" from the clause quoted above, but his amendment was rejected and the clause was adopted as proposed by the Finance Committee.[4]

[1] Act of June 30, 1864, 13 *U.S. Stat. at Large*, p. 254.
[2] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 2487, col. 1.
[3] *Ibid.*, p. 2487, col. 1.
[4] *Ibid.*, p. 2488, col. 2.

There were three other important changes in the license taxes made by this law. It was provided that in towns of not over 6000 population one person might carry on the business of a land-warrant broker, a claim agent, and a real estate agent on one license, by paying the highest fee for licenses applicable to either one of these pursuits.[1] The Commissioner of Internal Revenues had decided that when one person or firm did the business both of a banker and of a broker two licenses must be taken out.[2] This ruling was set aside by the proviso, "That any person holding a license as a banker shall not be required to take out a license as a broker."[3] The third important change was with regard to the penalty for carrying on a business without having paid the license fee required. The fine was changed from three times the amount of the license to not over $500 and the possible prison term was left at two years.[4]

In order that no kind of business should escape this tax, there was a sort of omnibus clause put into this act, which read, "A license fee of ten dollars shall be required of every person, firm, or corporation engaged in any business, trade, or profession whatsoever, for which no other license is herein required, whose gross annual receipts therefrom exceed the sum of one thousand dollars per annum."[5] The next year, however, this clause was repealed, and only such trades and professions were liable to the license tax as were specifically named.[6] The other changes made by the Act of 1865 were mostly verbal and of minor importance.

[1] 13 *U.S. Stat. at Large*, p. 250.
[2] *Supra*, pp. 168–69.
[3] 13 *U.S. Stat. at Large*, p. 252.
[4] *Ibid.*, p. 249.
[5] *Ibid.*, p. 257.
[6] Act of March 3, 1865, 13 *U.S. Stat. at Large*, p. 473. Cf. Table XVI (Appendix). It seems that this clause was put into the law of 1864 without much consideration. The House at first rejected the clause (*Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 1820, col. 3), but the Senate restored it (*ibid.*, p. 2490, col. 2), and the House did not again reject it. The next year, however, it was said that the general license included altogether too much, and the clause was repealed. (*Ibid.*, 2d Sess., 38th Cong., 1864–65, p. 695, col. 3.)

In the December term, 1865, of the United States Supreme Court, six cases were brought up questioning the constitutional right of Congress to require a license for operating a business in one of the States, when that business was prohibited by the laws of that State. The particular businesses in question were the operation of lotteries and the selling of liquors. The first case was an appeal from the United States Circuit Court of the Northern District of New York, and the other five were appealed from the Circuit Court of the United States for the District of New Jersey. The court did not render an opinion at this term, and during the next term three more cases, one from Massachusetts, and two from the Southern District of New York, were appealed. One opinion was handed down for all these cases, which are known as "The License Tax Cases." It was argued by the lawyers for the defense that Congress had no power to give authority for carrying on a business prohibited by the State. The court said: "It is not necessary to regard these laws as giving such authority. So far as they relate to trade within state limits, they give none, and can give none. They simply express the purpose of the Government not to interfere by penal proceedings with the trade nominally licensed if the required taxes are paid. The power to tax is not questioned, nor the power to impose penalties for nonpayment of taxes. The granting of a license, therefore, must be regarded as nothing more than a mere form of imposing a tax, and of implying nothing except that the licensee shall be subject to no penalties under national law, if he pays it";[1] and concluded, "That the provisions of the acts of Congress requiring such licenses, and imposing penalties for not taking out and paying for them, are not contrary to the Constitution or to public policy."[2]

[1] 5 *Wall.*, p. 471. The cases involved were: U.S. *v.* Vassar; U.S. *v.* Schureman; U.S. *v.* Green; U.S. *v.* Beatty; U.S. *v.* Shelly; U.S. *v.* Bowen; U.S. *v.* Swain; U.S. *v.* Craft; U.S. *v.* Craft.

[2] 5 *Wall.*, p. 475.

The Ways and Means Committee in May, 1866, reported to the House a revenue measure in which the license tax was dropped and in its place a special tax was substituted. Mr. Morrill said the special tax "will, it is supposed, do equal service without being liable to the objections . . . that it is an attempt to regulate the internal commerce of the States." He also referred to the fact that a case was then pending in the Supreme Court, and he said, while he did not think that the court would decide against the validity of the law, yet "from abundant caution, as we are revising the internal revenue laws, and as the technical objection, if there be one, can be so easily removed," this change was proposed.[1]

The change was made in the law as proposed by the committee, and when "The License Tax Cases" were decided by the Supreme Court at the December term, 1866, the validity of the special tax was also brought in question. The court concluded, "That the provisions in the Act of 1866 for the imposing of special taxes, in lieu of requiring payment for licenses, remove whatever ambiguity existed in the previous laws, and are in harmony with the Constitution and public policy."[2]

When the term "special tax" was inserted in lieu of the word "license," most of the taxes were left unchanged.[3] The Commissioner of Internal Revenues recommended that, as the business of the substitute broker had ceased with the close of the war, that part of the law should be repealed.[4] This suggestion was followed, and the tax on photographers and insurance brokers was also repealed. The business of grinding coffee and spices was added to the list of those taxed, the tax being $100.[5] The most important change of rates made applied to distillers and brewers.

[1] *Cong. Globe*, 1st Sess., 39th Cong., 1865–66, p. 2437, col. 1.
[2] *5 Wall.*, p. 475.
[3] Cf. Table XVI (Appendix).
[4] *Finance Report* (1865), p. 86.
[5] Act of July 13, 1866, 14 *U.S. Stat. at Large*, p. 122.

The Special Revenue Commission, in connection with their report presented in January, 1866, drew up several bills which they suggested to Congress as containing advisable changes in the laws. Among these was one concerning the manufacture and sale of fermented liquors and one dealing with the manufacture and sale of distilled spirits. Both suggested an increase in the special tax, the proposed rate for brewers being $100,[1] for distillers $500, and for rectifiers $250.[2] The commission suggested that, in order to secure an economic and practicable system of inspection, a concentration of manufactures was necessary.[3] Benjamin A. McDonald, a United States revenue agent who was called before the commission, testified that he did not think the increase in the license tax would have any effect on concentration.[4] The House Committee on Ways and Means did not follow the suggestion of the Special Revenue Commission as to rates, but an amendment was offered in the House to make the special tax on distillers $1000, for the purpose of driving out the smaller distillers, and so concentrating the industry. Opponents of the amendment argued that this would not serve to reduce the number of distillers, but the high rate would make more men willing to run the risk of distilling without paying the special tax.[5] The amendment was not carried and the bill as passed raised the rates on distillers and brewers from $50 to $100 and left the rate on rectifiers unchanged.[6]

Special Commissioner Wells in his report for 1867 made an important suggestion with regard to special taxes. He had recommended the repeal of some and the modification of others of the taxes, which would cause the revenue with-

[1] *Ex. Doc. No. 34*, 1st Sess., 39th Cong., 1865–66, p. 108.
[2] *Ibid.*, p. 121.
[3] *Ex. Doc. No. 62*, 1st Sess., 39th Cong., 1865–66, p. 36.
[4] *Ibid.*, p. 37.
[5] *Cong. Globe*, 1st Sess., 39th Cong., 1865–66, pp. 2629–30.
[6] 14 *U.S. Stat. at Large*, p. 117.

out the special taxes to run about $18,000,000 behind the estimated expenditures. Then he thought that the special taxes and the taxes on sales could be relied on to meet this deficiency, and that they might be modified, with little trouble and inconvenience to the business interests of the country, in such a way as to afford a large additional revenue. He even suggested that they might be held in the light of a "reserve revenue."[1]

During the session of Congress at which this report was submitted, a bill was reported for revising the revenue laws on the manufacture and sale of liquors and tobacco. The only changes in the bill that interest us, just at present, are those concerning the rates charged for licenses. The House Committee on Ways and Means proposed a tax of $200 on all distillers producing not over fifty barrels, and $4 for each additional barrel over fifty barrels. In the House there was an unsuccessful attempt to amend the bill, making the lower limit $100 for a distiller producing not over twenty-five barrels. The reason for proposing this amendment was to prevent the crushing-out of the small distilleries by the heavy tax.[2] The Senate, not being so favorably disposed toward small distilleries, amended the House bill by making the tax $400 for all distillers producing not over one hundred barrels, and $4 for each additional barrel,[3] and this was agreed to by the House. The House bill provided for changing the tax on retail liquor dealers, but as the tax was already levied for that year, the Senate thought it unwise to make any change. The tax on rectifiers and wholesale liquor dealers was materially increased. Besides these changes in rates, the special taxes were made to apply to manufacturers of and dealers in tobacco, compounders of liquors, and manufacturers of stills.[4]

[1] *Report of Special Commissioner of Revenues* (1867), pp. 41–42.

[2] *Cong. Globe*, 2d Sess., 40th Cong., 1867–68, p. 3491, col. 1.

[3] *Ibid.*, p. 3754, col. 2.

[4] 15 *U.S. Stat. at Large*, pp. 151–152. Cf. Table XVI for rates (Appendix).

In 1869 there were a few changes of minor importance made in rates by the Act of April 10.[1]

Mr. Wells, when he made his last report in December, 1869, took a different attitude toward the special taxes from the one he held in 1867, for now he proposed that they should all be repealed except "those levied on banks and bankers, and upon manufacturers and dealers in spirits, beer, and tobacco."[2]

The House Ways and Means Committee had been working for about two and one half years on a revision of the revenue laws. In the bill which they reported, and which was passed by the House, many more of the special taxes were retained than Mr. Wells had recommended.[3] When the bill went to the Senate it was voted to strike out all that part of the bill referring to special taxes[4] and insert in lieu thereof a clause repealing all special taxes except those on brewers and those mentioned in the Act of June 20, 1868.[5] The House at first refused to concur in this change, twenty-eight voting to concur, those opposed not being counted.[6] In a short time a motion was passed to reconsider the vote by which they refused to concur. The real reason for reconsidering the previous action was to test the attitude of the House toward the reduction of taxes and the doing-away

[1] 16 *U.S. Stat. at Large*, pp. 42–43. Cf. Table XVI for changes (Appendix).

[2] *Report of Special Commissioner of Revenues* (1869), p. 77.

[3] The special taxes retained by the House bill were on bankers, brokers, foreign commercial brokers, foreign insurance agents, claim agents, patent-right dealers, pawnbrokers, places of amusement, jugglers, bowling-alleys, billiard-rooms, lotteries, lottery-ticket dealers, distillers, rectifiers, retailers and wholesalers of liquors, manufacturers of stills, brewers, and manufacturers and dealers in tobacco. (*Cong. Globe*, 2d Sess., 41st Cong., 1869–70, pp. 3885–87.)

[4] *Ibid.*, p. 4708.

[5] The special taxes mentioned in Act of June 20, 1868, were on rectifiers, distillers, wholesale and retail liquor dealers, dealers in leaf and manufactured tobacco, manufacturers of tobacco, cigars, and stills, and compounders of liquors.

[6] *Cong. Globe*, 2d Sess., 41st Cong., 1869–70, p. 5414, col. 3.

with unnecessary officers. There was a feeling that the surplus in the Treasury was leading to extravagance, and some Representatives wished to repeal certain taxes so as to reduce this surplus. On reconsideration the vote stood 107 to 73 in favor of concurring in the Senate amendment.[1]

This bill was approved July 14, 1870, and the repeal went into effect May 1, 1871.[2] The income of the Government was reduced about $10,000,000 annually by the repeal of these special taxes and those that were retained produced over $19,000,000 in 1871.[3]

Like the stamp taxes, the license or special taxes, as has been said, being levied on so many different things, required a great variety of decisions by the Internal Revenue Commissioners and the courts in order to determine just how the laws should be applied. One question on which the officials and the taxpayers differed concerned what should be understood by the capital of a bank when the amount of license tax was graded according to the capital stock. Some of the assessors and collectors held that the average surplus should be added to the chartered capital in determining the license, and the bankers thought that it should not. In the case of the Mechanics' and Farmers' Bank of Albany *v.* Townsend, the United States Supreme Court held that "The 'capital' of a bank and its 'surplus earnings' convey distinct and different ideas and meanings," and that the statute neither expressly nor impliedly regarded surplus as a part of the capital.[4] The Commissioner, in giving instruction for the collection of taxes after this case had been tried, conformed to the opinion of the court.[5]

There were many decisions rendered with regard to manufacturers of and dealers in liquors. The law provided that manufacturers could sell their own products on the

[1] *Cong. Globe*, 2d Sess., 41st Cong., 1869–70, p. 5417, col. 2.

[2] 16 *U.S. Stat. at Large*, p. 256.

[3] Secured from tables in the *Internal Revenue Commissioner's Report* for 1879.

[4] 5 *Blatch.*, p. 316.

[5] 5 *I.R.R.*, p. 110; 7 *I.R.R.*, p. 60.

premises of the factory without paying the special tax of a dealer. The Commissioner held that this applied to brewers so long as the sales were made in the original casks or packages,[1] but that brewers making sales at any place except the brewery were liable to the special tax of dealers in liquor.[2] On the other hand, rectifiers were not allowed to sell their distilled products at any place without paying the tax as liquor dealers.[3] Other rulings affecting the handling of liquors were as follows: When a party who held a license as a retail liquor dealer wanted to retire from the business, he might sell his entire stock to another person without procuring a wholesale liquor dealer's license.[4] If auctioneers sold liquor at auction they were liable to an extra tax as dealers.[5] A penalty could be visited upon the property or person of a distiller, only after assessment had been made, the tax demanded, and payment refused.[6]

Commissioner Lewis ruled that a retail liquor dealer must take out another license if he sold other merchandise, but in 1865 this rule was changed so that the extra license was not required;[7] but if he kept an eating-house also, he was required to pay a special tax for that privilege.[8]

The provision in the law for the tax on manufacturers also required a number of decisions. A manufacturer could sell, without an additional license, his own products at the factory or at the principal office, providing no wares were kept at the office except as samples, but if he sold goods not of his own production or away from his factory or office, he would need a dealer's license.[9] If a manufacturer or dealer traveled about the country soliciting orders for his own establishment, he was required to hold a commercial broker's license.[10] The same was true of an agent of, or

[1] 10 *I.R.R.*, p. 40. [2] 10 *I.R.R.*, p. 177. [3] 10 *I.R.R.*, p. 194.
[4] 2 *I.R.R.*, p. 77. [5] 10 *I.R.R.*, p. 12.
[6] U.S. *v.* 35 Barrels, 9 *I.R.R.*, p. 67; U.S. *v.* Trobe *et al.*, 2 *I.R.R.*, p. 133.
[7] 3 *I.R.R.*, p. 172. [8] 5 *I.R.R.*, p. 180.
[9] 7 *I.R.R.*, p. 60. [10] 2 *I.R.R.*, p. 100.

"runner" for, a manufacturer or dealer.[1] A manufacturer could sell his products at the factory without being liable for a special tax as an auctioneer.[2] The proprietor of a grist- or flour-mill was considered a manufacturer and was required to pay a special tax as such.[3] This reversed the decision of Commissioner Boutwell rendered in 1863.[4]

It became necessary at times for the Commissioners to define certain terms more accurately than had been done by the laws. Some of these definitions were, that dealers and peddlers had *actual possession* of the goods, wares, produce, or merchandise which they sold, while brokers sold by sample or through representation or took orders for the goods;[5] but if a peddler sold by taking orders from samples, he was also a commercial broker.[6] A person acting as the direct agent of an insurance company for soliciting or surveying risks was an insurance agent, but if he acted in behalf of the party desiring to be insured, he was an insurance broker.[7] A farmer who bought cattle for the purpose of feeding or grazing them was not considered a cattle broker, but if he made it a business to buy and sell cattle, he was a broker.[8] Any person who mixed distilled spirits, wines, or other liquors with any material was a rectifier if by such mixing a spurious imitation, or compound liquor was manufactured. Any person could become a rectifier by any manipulation of spirits which resulted in rectifying, purifying, or refining them by any process other than by original and continuous distillation from the mash or wash through closed pipes or vessels until the manufacture was complete.[9]

The early license tax laws provided that a license could be transferred in case of death or upon removal of the holder of the license from the place where it authorized the trade or profession to be conducted. When the special

[1] 2 *I.R.R.*, p. 61. [2] 11 *I.R.R.*, p. 145. [3] 5 *I.R.R.*, p. 100.
[4] Boutwell (1863), p. 309. [5] 2 *I.R.R.*, p. 126. [6] 2 *I.R.R.*, p. 186.
[7] 1 *I.R.R.*, p. 155. [8] 2 *I.R.R.*, p. 117. [9] 10 *I.R.R.*, p. 121.

taxes replaced the licenses, the privilege of assignment in case of death was continued, but no provision was made for cases of removal, and the Commissioner held that the rights under special taxes were not transferable.[1]

The license taxes, like the stamp taxes, were especially useful during the first part of the war because they furnished a large income as soon as they were put into operation, and it was not necessary to wait several years before appreciable revenue came from that source.[2] In 1863 the income from this source was over seventeen per cent of the entire income from internal revenues. The next year it fell to between six and seven per cent, where it remained until 1868, when it rose to over eight per cent; in 1869 it rose to nearly thirteen per cent; and in 1870, the last full year in which the license taxes were collected, it rose to over fourteen per cent.

The industry which paid the most tax was the retail liquor business, which, in the nine years from 1863 to 1871, paid $24,500,000, or over sixteen per cent of all the taxes collected from licenses. Next to this came wholesale dealers with approximately fourteen and one fourth per cent, liquor distillers with approximately eleven and one half per cent, and retail dealers with approximately ten and one half per cent. The increase in returns in 1865 over 1864, amounting to nearly $5,000,000, was due in a large measure to the increase in the number of industries made subject to the tax by the law of June 30, 1864. The increase of nearly $6,000,000 in 1866 over 1865 was due largely to the operation of the law in certain parts of the Southern States from which, prior to that time, it had been shut out by the secession.[3]

Mr. Morrill, in reporting the first bill in 1862 for levying license taxes, stated that the greatest objection to such taxes was their novelty.[4] Mr. Wells, after the tax had

[1] 4 *I.R.R.*, p. 166.
[2] Cf. Table XVII (Appendix).
[3] *Finance Report* (1866), p. 47.
[4] *Supra*, p. 167.

been in operation for five years, thought that "all our revenue experience during the past five years has conclusively shown that, with the exception of stamps, there is no class of taxes which are paid so readily and promptly; are collected with so little trouble and expense by the government officials; and impede to so small a degree the industry and development of the country, as the so-called license taxes." This was probably due to the fact that in most instances the taxes were very low and the taxpayer thought it was cheaper to pay the tax than to try to evade it and run the risk of having to suffer the penalty. This is illustrated by the returns from lottery-ticket dealers. Until July 1, 1864, they were subject to a tax of $1000, and in 1864 only $3091.02 was collected from them. The next year, with the rate at $100, the collection was $43,479.67. It is hardly to be supposed that there were only three lottery-ticket dealers in 1864 and that that number increased to 434 the next year, but a more reasonable explanation accounts for the increase by the fact that with the very high rate the dealers were willing to risk carrying on operations without paying the tax.

The fact that the rates were not high kept down serious objection to these taxes. More than half of the industries were taxed in a lump sum without regard to the amount of business done. This method, on general principles, is a very unjust one for levying the tax, because a man with a large business could distribute the burden among a large number of customers or assume it himself, while his less fortunate neighbor, carrying on a much smaller business, would be compelled to assume it in order to meet the prices of his larger competitor and would perhaps be crushed by it. There seem to be no instances of these taxes having that effect, as did the stamp tax,[1] but the possibility was there, and the results might have come if the rates had been higher.

[1] *Supra*, pp. 164–65.

CHAPTER VIII

TAXES ON SPIRITUOUS AND FERMENTED LIQUORS

A. Distilled Spirits

(1) *History*

The experience of the Federal Government with the taxation of spirits before 1862 had been limited to two periods, one of eleven years[1] and the other of four years.[2] For forty-five years, from 1817 to 1862, the production and sale of spirits had been unhampered by federal taxation. This industry had steadily developed until the census of 1860 showed that there were 1138 distilleries in operation, which produced in one year 88,002,988 gallons of spirits.[3] The average price of proof spirits in Cincinnati for 1860–61 was 14.40 cents per gallon.[4] When Secretary Chase found it necessary to ask Congress to provide for more revenue in 1861, he suggested, among other things, "duties on stills and distilled liquors."[5]

The act which was passed July 1, 1862, provided for license taxes on distillers, rectifiers, and wholesale and retail liquor dealers, which taxes have been dealt with under the subject "License Taxes," and so will not be considered further here. The principal tax which is to be discussed in this chapter is that levied directly on the

[1] Levied by Act of March 3, 1791 (1 *U.S. Stat. at Large*, pp. 202–03) and repealed by Act of April 6, 1802 (2 *U.S. Stat. at Large*, p. 148).

[2] Levied by Act of July 24, 1813 (3 *U.S. Stat. at Large*, p. 42), and August 2, 1813 (*Ibid.*, p. 72), and repealed by Act of December 23, 1817 (*ibid.*, p. 401).

[3] *Preliminary Report of the Eighth Census*, p. 178.

[4] Letter of D. A. Wells to Secretary J. G. Carlisle, July 8, 1893, in *Finance Report* (1893), p. 1100.

[5] *Finance Report* (1861), p. 15.

spirits. In connection with this some attention will also be given to other things which acted indirectly as a tax on spirits, such as salaries and fees of inspectors, storekeepers, and gaugers, the *per diem* tax on stills, and the cost of certain buildings and apparatus which the law required distillers to provide.

The bill which the Ways and Means Committee reported to the House in March, 1862, was the beginning of the present system of taxation by the Federal Government on the production of spirituous liquors, which has continued down to the present time. The rate as proposed by the committee was fifteen cents per proof gallon,[1] which as compared with later rates was very low, but, when compared with the taxes on other manufactured articles included in the same bill, was very high. The *ad valorem* rate on other articles normally ranged from three to five per cent, in a few cases going as high as twenty-five per cent; as it cost only from fourteen cents to seventeen cents to produce a gallon of liquor, the *ad valorem* tax was about one hundred per cent. Recognizing the fact that spirits were not ready for use as soon as manufactured, and that requiring the tax to be paid when the article was produced would necessitate the use of a large amount of capital, the committee provided that the tax should not be paid until the liquor was sold.

At that time, as at present, large quantities of liquor were consumed as a beverage, but the percentage of the entire product which was used for industrial purposes was probably much greater then than it is now. The cheapness of alcohol made it possible to use it in a variety of domestic industries, and it was the chief ingredient of such compounds as preparations of varnish, hair tonics, perfumery, and patent medicines. It is probable that most of that part which went into industrial uses was devoted to the production of burning fluid, which was composed principally

[1] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 1308, col. 1.

of oil of turpentine and alcohol. The spirits which came from the distillery were practically never used for drinking until they had undergone some change, either by being redistilled, rectified, or adulterated, while that portion used for industrial purposes did not undergo this second process. Desiring not to interfere unduly with industry, the committee proposed the fifteen-cent rate on raw spirits and an additional twenty-five cents per gallon when the raw spirits were prepared for use as a drink.[1]

When the bill came up for discussion in the House, practically all the Representatives seemed to be in favor of taxing spirits, but opinions varied greatly as to what the rate should be. The tax in England at this time was $2.52 a gallon, and although no one proposed to make it so high here, many thought that it could be made much higher than fifteen cents, while others thought a lower rate would be more just.[2] But the bill finally passed the House without the tax on the raw product being changed. The tax on the rectified product was modified so that fifteen cents per gallon was levied on whiskey and thirty cents on brandy, rum, gin, and wine.[3]

The debate in the Senate was much more extended than it was in the House. The Finance Committee proposed to amend the House bill by raising the tax on raw spirits to twenty cents,[4] and by striking out the clause providing for a tax on rectified spirits. The reason given for dropping this tax was that it was so easy and inexpensive to do rectifying that the business would be carried on illegally where it would be almost impossible to detect the fraud, and the Government would gain nothing from the tax.[5] The committee's proposal was adopted in the Committee of the Whole, but when the bill was discussed in regular session,

[1] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 1435, col. 1.
[2] *Ibid.*, p. 1309.
[3] *Ibid.*, p. 1436, col. 2.
[4] *Ibid.*, p. 2283, col. 1.
[5] *Ibid.*, p. 2313, col. 3.

the tax on rectified spirits was restored, but at the rate of ten cents per gallon.[1]

Mr. Sherman, of Ohio, said that he thought the increase in tax as proposed by the committee was making it too high, and that he preferred to have a much lower tax imposed at first and then gradually raise it until it was as high as necessary to produce the desired revenue.[2] Mr. W. P. Fessenden, of Maine, held the same idea. Mr. Sherman said that with the rate so high the distilleries would cease operation and then the Government would get no taxes. He continued: "It has been known ever since last July that a tax would be put on whiskey, and all the distillers of the country have been running at their extremest capacity, and to-day they are running more than they have done before. Every old still in the country has been set at work, simply because it was supposed a tax would be put on whiskey, and that the stock on hand would not be taxed."[3] Some of the distillers acknowledged this to be the condition, as is shown by a communication of an Ohio firm to a member of the House, which read, in part: "Western distillers, as far as we are acquainted, made up their minds last August that distilled spirits would be one of the articles that would be heavily taxed. Acting on this, we all increased the quantity run, so that if the tax should be higher than we thought we could stand we would be in a position to shut down."[4]

When the bill was being debated in the House, Mr. A. B. Olin, of New York, suggested that the tax should be made to apply to the spirits on hand as well as those produced after the act went into effect. He thought that otherwise distilling would cease for, perhaps, two years, and at

[1] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 2581, col. 1.

[2] This idea was expressed several times in the House. *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, pp. 1310–11.

[3] *Ibid.*, p. 2283, col. 1.

[4] Letter of R. R. McKee & Co. to W. P. Noble, March 16, 1862, in *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 1309, col. 1.

the same time a bounty would be voted on the spirits already produced.[1] Mr. Morrill was opposed to the suggestion because he said much of the quantity already produced was held by small storekeepers and could be assessed only by very inquisitorial methods.[2] However, such an amendment was voted in the Committee of the Whole,[3] but was rejected by the House in regular session.[4] A similar proposition was made in the Senate and defeated. An amendment was then offered, to make the tax on spirits on hand one half as high as on those produced after the act went into effect. Many men had bought large quantities, expecting that the price would advance with the tax added, and it was proposed to make the tax only ten cents, so as not to discourage industry.[5] The objection was made that it would be impossible to reach all this liquor,[6] but it was answered that the most of it was held by a few large dealers.[7] It was also argued that this was the only tax which it was proposed to make apply to the supply on hand.[8] Mr. Simmons, of Rhode Island, said that when the bill passed the House the price of spirits had gone up and distillers had sold, and that if this amendment was passed it would be a hardship on the purchaser.[9] Mr. Fessenden replied that ordinary business would not be disturbed, but only speculation.[10] However, the amendment was rejected. One big influence in the defeat of the amendment was probably the fact that some of the members of Congress had a financial interest in spirits already produced.[11]

At various times during the discussion in both houses it was argued that a high tax should be levied, because of the moral benefit which would result. Representative S. C. Fessenden, of Maine, thought that a tax so high that it

[1] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 1309, col. 3.
[2] *Ibid.*, p. 1310, col. 1.
[3] *Ibid.*, p. 1311, col. 3.
[4] *Ibid.*, p. 1564, col. 3.
[5] *Ibid.*, p. 2283, col. 2.
[6] *Ibid.*, p. 2480, col. 2.
[7] *Ibid.*, p. 2283, col. 2.
[8] *Ibid.*, p. 2480, col. 2.
[9] *Ibid.*, p. 2480, col. 3.
[10] *Ibid.*, p. 2481, col. 2.
[11] Cf. *infra*, p. 195–96.

prohibited the manufacture of intoxicating liquors would have not only moral but financial advantages. His reason for this conclusion was that if men could not buy liquors, they would have more money to spend on other things on which a tax was levied.[1] The moral arguments did not have much, if any, effect, as many of the Senators and Representatives did not think that the tax would alter the amount consumed.[2] Furthermore they did not favor passing sumptuary laws at this time.

The amended bill, when it went to the conference committee, met with a further change. The conferees for the House consented to the tax on raw spirits as proposed by the Senate, with the understanding that no duty was to be levied on rectified spirits.[3] So the law as it went into operation placed a duty of twenty cents per gallon on all spirits of first proof[4] distilled after August 1, 1862, and the rate increased in the proportion that the strength was greater than first proof.

The internal revenue collectors and assessors were authorized to levy and collect the tax, and for the purpose of inspecting, gauging, and proving the spirits, the collector was given power to appoint inspectors. These inspectors

[1] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 1312, col. 3.

[2] Mr. McDougall, of California, said, "It has been proved by past experience that taxation on this subject and corresponding subjects by tariffs has nothing to do with the consumption." *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 2284, col. 1.

[3] *Ibid.*, p. 2890, col. 2.

[4] First proof as defined in this act was "that proof of a liquor which corresponds to fifty degrees of Tralles' centesimal hydrometer, . . . at the temperature of sixty degrees of Fahrenheit's thermometer." (Act of July 1, 1862, 12 *U.S. Stat. at Large*, p. 447.) Webster's New International Dictionary says that "proof spirit is defined by law to be that mixture of alcohol and water which contains one half of its volume of alcohol, the alcohol when at a temperature of 60° Fahrenheit being of specific gravity 0.7939 referred to water at its maximum density as unity. Proof spirit has at 60° Fahrenheit a specific gravity of 0.93353, 100 parts by volume of the same consisting of 50 parts of absolute alcohol and 53.71 parts of water," the apparent excess of water being due to contraction of the liquids on mixture.

were to receive fees, which were prescribed by the Commissioner of Internal Revenues, but paid by the owners of the property inspected. The distiller, if he did not desire to sell his liquors as soon as made, could erect an iron, stone, or brick warehouse, at his own expense, to be known as a bonded warehouse, where the spirits could be stored, under the custody of the collector, and the tax did not need to be paid until the liquors were removed for sale. The fees of the inspectors and cost of the warehouse acted as an indirect tax on spirits.[1]

To aid the assessor and collector in their duties, the distillers were required to keep books in which daily entries were made of the amount of grain or vegetables used, and the amount of spirits manufactured and sold. Three times a month reports were to be rendered to the collector and the taxes paid. If they were not paid then, ten per cent was added and they became a lien on the distillery and fixtures.[2] Any distiller failing to fulfill the requirements of the law was subject to heavy penalties as was also any inspector for failure to perform his duties properly.[3]

Much of the liquor produced was not consumed in the district where made, and provision was made for shipping it before the tax was paid. If it was to be exported, the distiller, by giving satisfactory bond to guarantee that it would be exported, could remove the liquor without paying the tax. When it was to be sold in the United States, but in another collection district from that in which it was produced, it was consigned to the collector of the second district and the tax did not need to be paid until the liquor was delivered.[4]

This portion of the revenue law seems to have been drawn so accurately that there was little demand for

[1] 12 *U.S. Stat. at Large*, pp. 447–48. [2] *Ibid.*, p. 452.

[3] Table XIX in the Appendix gives a list of the penalties which were provided by different acts. At first there were only four penalties, but these were added to from time to time until the list became very extended.

[4] 12 *U.S. Stat. at Large*, pp. 448–49.

interpretations by the Commissioner of Internal Revenues. He decided that wines were not classed among spirituous liquors, and that they, as other manufactured articles, were exempt when the value of the annual product did not exceed $600.[1] The law of July 1, 1862, provided that the tax was to be assessed on all goods which were completed, but had not been removed from the factory before the act went into effect.[2] The Commissioner decided that the place of manufacture meant all the property owned by the company and that the tax was due when the spirits were *sold*, notwithstanding they had been made before the law went into operation and the spirits had been moved to another house on the same lot.[3] Thinking that this was not a proper interpretation of the law, in March, 1863, Congress amended it so that no duty was collectible on articles actually manufactured before September 1, 1862.[4] During this session of Congress there was a very great pressure upon the Committee on Ways and Means to get the tax on spirits raised,[5] but they recommended that the tax be left untouched and their suggestion was followed.

Early in the next session a bill was introduced to increase the revenues by raising the tax on spirits and cotton. The Commissioner in his report in December, 1863, had said that with our scattered population it would be impossible to collect so high a tax on spirits as was collected in England, yet there was no good reason for maintaining a rate so far below that imposed by any other civilized country, and suggested that the tax be made not less than sixty cents.[6] The House Ways and Means Committee in framing a bill adopted the rate which the Commissioner had suggested. In the House amendments increasing the

[1] Boutwell (1863), p. 321. [2] 12 *U.S. Stat. at Large*, p. 466.

[3] Redfield, p. 85. (Taken from a communication of Commissioner Boutwell to the New York *Transcript*, October 27, 1862.)

[4] Act of March 3, 1863, 12 *U.S. Stat. at Large*, p. 723.

[5] *Cong. Globe*, 3d Sess., 37th Cong., 1862–63, p. 1319, col. 3.

[6] *Finance Report* (1863), p. 64.

tax were offered. Mr. Lovejoy, of Illinois, proposed to put it at one dollar, because he thought the committee's intention was to raise it gradually to that point and that "capricious and ever-varying legislation" was "one of the very worst things for any interest."[1] Mr. Grinnell, of Iowa, wanted it increased to $1.20 for three reasons: (1) because more revenue was needed to carry on the war; (2) to decrease consumption of liquor; (3) to save the grain that would be used by the distillers, as it would be needed for feeding stock and for the army.[2] There were also members who opposed any increase, arguing that the tax was already high enough.

The question, however, which was most debated was whether the increased rate should be made to apply to the stock of spirits already manufactured. This question had been thoroughly discussed in both houses in 1862 and decided in the negative,[3] but it came up again as soon as this bill was reported. In the House, Mr. Fernando Wood, of New York, said that some politicians had been advised in advance of the members of Congress what the recommendations of the Secretary of the Treasury would be, and had gone into the market and had become interested, either directly or indirectly, in millions of gallons of spirits.[4] He wished to foil these speculators, and therefore proposed an amendment that the increase in rate should be made to apply to all spirits already produced, but that on such quantities as the twenty-cent tax had been paid only forty cents should be added.

All the arguments used two years before, both for and against the amendment, were repeated and some others were added. Mr. Stevens, of Pennsylvania, said that he thought such legislation would be "not only unjust, but in palpable violation of the implied contract of the Govern-

[1] *Cong. Globe,* 1st Sess., 38th Cong., 1863–64, p. 268, col. 1.
[2] *Ibid.*, p. 268, col. 3.
[3] *Supra,* pp. 188–89.
[4] *Cong. Globe,* 1st Sess., 38th Cong., 1863–64, p. 218, col. 1.

ment, as much so as it is possible to make it," because by the previous law Congress had ordered that certain things should pay a duty and when that was paid the owners had a right to suppose that no further tax would be levied upon them.[1] To this Mr. Pike, of Maine, answered that he did not consider that the theory of taxation was such a contract, but that the only contract about it was "that it [the Government] will go no further and take no more than its necessities require."[2]

In support of the amendment it was said that unless the increase was made to apply to the stock on hand, the distilleries would be shut up until that supply was consumed, because speculators who held it could sell, profitably, at a less price than the distiller could turn out the new product. The practical result would be that the people would be taxed and the tax would go into the hands of speculators instead of into the Treasury of the United States.[3]

The amendment was adopted and then the Ways and Means Committee tried unsuccessfully to defeat it by offering a substitute for the whole bill, which was practically the same as the original bill with this amendment left out.[4] In order to put foreign and domestic spirits on the same basis, an amendment was adopted putting a tax of forty cents per gallon on all spirits which had already paid an import duty.[5]

In the Senate this question was fully debated, but no new arguments were advanced,[6] and it was voted to strike out this amendment.[7] The Senate also changed the bill as received from the House by providing for future increases in rates. All spirits produced from the time the act was passed until July 1, 1864, were to be taxed sixty cents per gallon; from July 1, 1864, to January 1, 1865, seventy

[1] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 282, col. 3.
[2] *Ibid.*, p. 283, col. 1.
[3] *Ibid.*, p. 284.
[4] *Ibid.*, p. 312, cols. 1–2.
[5] *Ibid.*, p. 311, col. 3.
[6] *Ibid.*, p. 461 *et seq.*, and p. 491 *et seq.*
[7] *Ibid.*, p. 488, col. 1.

cents; and after January 1,1865, eighty cents. The reason given for such rates was that the distillers would be encouraged to keep at work, against which it was said that it might lead to excessive production and speculation.[1]

The Committee of Ways and Means recommended that the House concur in the changes made by the Senate, because the Senate bill would produce more revenue.[2] The House consented to strike out the clause increasing the tax on spirits already produced in the United States,[3] but would not consent to the future increase of rates proposed by the Senate. After three unsuccessful conferences the Senate receded from this amendment.[4] This left the tax at sixty cents from March 7 (the date the act was approved), until July 1, 1864.[5] If there was to be any tax after that date more legislation would be necessary. The Senate also receded from its amendment striking out the extra tax on spirits already imported, so that the domestic product was given a great advantage, but the Secretary of the Treasury directed that this tax should not be collected until there was further legislation on the subject.[6]

It was charged that the proposal for taxing spirits on hand was defeated by corrupt means. The New York "Tribune" said: "When the proposition that Whiskey on hand should be taxed was before Congress last Winter, a mercantile house in our city that held a large stock of the article was told, 'You must sell to certain parties operating in Washington eight thousand barrels at eighty cents per gallon, or the tax will go on.' They consented, and that same Whiskey was sold, after the tax had been defeated, at an advance of thirty cents per gallon, without having been removed. Here was not less than $72,000 paid to defeat the Whiskey tax by one house; judge, then, what

[1] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 461, col. 1.
[2] *Ibid.*, p. 691, col. 3.
[3] *Ibid.*, p. 692, col. 3.
[4] *Ibid.*, p. 938, col. 1.
[5] 13 *U.S. Stat. at Large*, p. 14.
[6] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 1785, col. 2.

must have been paid in all."[1] Mr. Fernando Wood, of New York, said, "There have been unseemly influences and lobbying in both branches of Congress in reference to taxing whiskey on hand."[2] In 1868, when there were reports that Congress might increase the whiskey tax and not make it apply to the supply on hand, the New York "Times" said: "The object is to reënact the first whiskey legislation of Congress, by which a few members of Congress and their friends realized immense fortunes, and which was the beginning of the fearful corruption and demoralization which has since proved so disastrous in its consequences to the revenues and honor of the country."[3]

A bill providing for a general revision of the internal revenue laws, reported soon after the tax on spirits had been increased, included changes in the liquor taxes. The subjects of increasing the tax at present, of providing for future increases of rates, and of taxing the stock on hand came up again for discussion and the arguments presented were substantially the same as those already mentioned. The proposition to tax the spirits on hand was again lost,[4] but the one to provide for future increase of rates was carried. The tax was set at $1.50 from July 1, 1864, to February 1, 1865, and $2 after February 1, 1865.[5] A new tax of twenty-five cents per gallon was added on brandy distilled from grapes.[6] The machinery for administering the law was left practically the same, with some other penalties[7] added to secure better enforcement of it.

The Internal Revenue Commissioner's report for 1864, in so far as it related to the tax on spirits, was anything

[1] May 21, 1864, p. 6, col. 3. Another article along the same line was published in the *Tribune* of January 20, 1865, p. 4, col. 4.

[2] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 1786, col. 1.

[3] December 14, 1868, p. 4, col. 2.

[4] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 2550, col. 3, and p. 3020, col. 1.

[5] Act of June 30, 1864, 13 *U.S. Stat. at Large*, p. 243.

[6] 13 *U.S. Stat. at Large*, p. 244.

[7] Cf. Table XIX (Appendix).

but favorable. He said that some people were under the impression that Congress would reduce the tax, and that, along with the fact that there was a large stock on hand, had retarded production. He regretted that provision had been made for increasing the rate at a future time; for, if distillers became convinced that the tax would not be reduced, they would be very active for a short period and much revenue would be collected, and then would come a corresponding period of languor and depression and revenue would be proportionally diminished. Therefore, he thought it would be advisable to impose the $2 tax at once.[1]

Acting upon the Commissioner's suggestion, a bill was reported in the House by the Ways and Means Committee to change the time when the $2 rate should go into operation from February 1 to January 1. They gave as their reason that "we think the Government will thereby obtain a very large revenue, as the distillation season is just commencing."[2] This bill passed both chambers with little discussion.[3]

A bill was passed in the evening of the last day of this session further amending the Act of June 30, 1864. There was little discussion on the sections relating to the tax on spirits and the changes made were of minor importance. The rate of the tax was left unchanged, except that that on grape brandy was increased from twenty-five cents to fifty cents per gallon, and a new tax of $1.50 per gallon was put on the production of brandy from apples and peaches. Some of the penalties also were increased.[4]

In February, 1866, the Special Revenue Commission made a special report to Congress on "Distilled Spirits as a Source of National Revenue."[5] In this report the commission said that it seemed to be almost the unanimous sentiment of the country that distilled spirits ought to

[1] *Finance Report* (1864), pp. 58–59.
[2] *Cong. Globe*, 2d Sess., 38th Cong., 1864–65, p. 68, col. 1.
[3] Act of December 22, 1864, 13 *U.S. Stat. at Large*, p. 420.
[4] Act of March 3, 1865, 13 *U.S. Stat. at Large*, p. 472.
[5] *Ex. Doc. No. 62*, 1st Sess., 39th Cong., 1865–66.

contribute a very large proportion of the taxes needed by the Government and that there was no article which constituted a fairer subject for excise. "That distilled spirits *can*, furthermore, without detriment to any business interests of the country, be made to yield a revenue sufficiently large to lighten the burden of taxation on almost every other branch of industry, is an assertion that seems to scarcely need proof to substantiate." The commission reported, further, "*On the part of many — and perhaps a majority — of the leading distillers of the country, an opinion strongly adverse to any alteration of the present rate of excise has been expressed*," the reasons being that the experience of the working of the law was not sufficient to determine what effect the two-dollar rate would have, and that the interests of both the Government and the distillers would be promoted by stability rather than by any immediate change.[1] Doubtless the real reason which prompted the dealers to urge the retention of the high rate was because they had spirits on hand on which they had paid the tax at a lower rate, but were able now to sell at a price covering a two-dollar tax.

The members of this commission themselves had originally favored the retention of the two-dollar rate, but after extensive investigations they reported: "The result of this inquiry has led to a reversal of their original opinion, and induces them to believe that, in a *revenue, industrial*, and *moral* point of view, it would be expedient *to reduce the existing excise of two dollars per gallon on distilled spirits, and to substitute therefor a lower rate of one dollar per proof gallon*." The reasons given for recommending this change from a revenue standpoint were that the two-dollar rate was a higher tax than was imposed in any other country,[2]

[1] *Ex. Doc. No. 62*, 1st Sess., 39th Cong., 1865–66, p. 25.

[2] The tax in England at that time was 10*s.* ($2.50), but the standard English gallon contained 46.27 cubic inches more than the standard American gallon, so that on the spirits in England equal to the American gallon the tax was 7*s.* 4*d.* ($1.83).

and also because experience had shown that an unreasonably high tax contained within itself the elements of its own annulment.[1] The report contained the further suggestion that if the law was to be effectively enforced, such changes should be made as would give to the Secretary of the Treasury or to the Commissioner of Internal Revenues power to make such an organization and detail of inspection as was necessary to secure the revenues and prevent fraud.[2]

The House Ways and Means Committee, in reporting the bill in May, 1866, proposed to retain the two-dollar tax, giving as their reasons, "mainly that we may have the law of high rates in operation a sufficient length of time to test its real value for revenue purposes, and incidentally, no doubt, its value as a mode of repression in the consumption of intoxicating beverages."[3] The question of the rate of the tax met with little discussion; little effort was made to reduce it, and the two-dollar tax was continued. One kind of liquor which had previously been untaxed was now included in the new law. All wines put up in imitation of champagne or imported wines were taxed three dollars per dozen bottles when the bottles held not more than one pint, and six dollars per dozen bottles when they held more than one but not more than two pints.[4]

The greater part of the law was directed toward changes in administration so as to prevent fraud and to collect a larger portion of the revenues which it was thought should be derived from this source. These changes made some increased charges on the distillers. The bonded warehouses had been under the charge of the collector of the district, but by this law a storekeeper was required for each warehouse, whose salary was collected monthly by

[1] *Ex. Doc. No. 62*, 1st Sess., 39th Cong., 1865–66, p. 27.
[2] *Ibid.*, p. 20.
[3] *Cong. Globe*, 1st Sess., 39th Cong., 1865–66, p. 2437, col. 1.
[4] Act of July 13, 1866, 14 *U.S. Stat. at Large*, p. 158.

the collector from the owner of the warehouse.[1] Under previous acts one inspector might act for several distilleries, but now a separate inspector was required for each establishment and his salary was collected from the distiller. An assistant inspector was appointed in case the work became too great for one inspector to perform it properly, and his salary also was charged to the distiller. In addition to these two classes of inspectors, one or more general inspectors were appointed for each district in which there were any distilleries, paid by fees collected from the owners of the articles inspected.[2] One other extra charge which operated indirectly as a tax on spirits was the cost of all locks and seals used by the inspectors and keeper of the warehouse in discharge of their duty.[3]

The supervision of distilleries and warehouses was made very rigid. The warehouses were to be kept locked by the government storekeeper except when he was present, and spirits could be removed only when the tax was paid or in bond for exportation.[4] It was required, when the spirits were distilled, that they should be run into receiving cisterns erected in a room, which was kept locked by the inspector except when he was present. The cisterns could be emptied only in the presence of the inspector, who inspected, gauged, and proved the spirits and marked the casks, which were then removed directly to the bonded warehouse.[5]

A further effort made to secure the enforcement of the law was by increasing the severity and the number of penalties. By previous acts eight different penalties had been provided, but now twenty-six new ones were added, part of them applying to the manufacturer or dealer in spirits for violating the law, and part applying to revenue officers for failure to perform their duties properly.[6] When

[1] 14 *U.S. Stat. at Large*, p. 155.
[2] *Ibid.*, p. 156.
[3] *Ibid.*, p. 158.
[4] *Ibid.*, p. 155.
[5] *Ibid.*, p. 158.
[6] Cf. Table XIX (Appendix).

the bill was being debated in the Senate, the objection was raised that it was too drastic. One Senator said that the law treated all persons who were to be affected by it as "knaves and plunderers," [1] and suggested that some of the penalties be stricken out, but his proposal was not followed.

The following year, when this law was amended, the $2 tax was retained, the tax on brandy from grapes was raised to $1 per gallon,[2] and a new indirect tax on spirits in the form of the cost of meters for weighing, gauging, and proving was levied. The clause requiring a special inspector for each distillery was repealed and his duties were transferred to the general inspector.[3] The administration was left practically unchanged, but there were five more penalties added for violations of the law.[4]

The $2 tax was given a fair trial in the sense that it was in operation over three and one half years; and it was not a success. During the fiscal year 1864, the rate was twenty cents until March 7, and sixty cents from March 7 to June 30, and the receipts were $28,431,797, being paid on 85,295,391 gallons of spirits. During the following fiscal year the rate was $1.50 for the first six months, and $2 for the second six months; and the receipts were $15,995,701, being paid on 16,936,778 gallons.[5] During 1866 and 1867 the rate was $2 and the receipts were $29,198,578 and $28,296,264,[6] paid on 14,599,289 and 14,148,132 gallons respectively.[7] This great reduction in the amount of spirits reported for taxes was due, in part, especially in 1865 and 1866, to the large amount which had been produced and stored in anticipation of the tax.

[1] *Cong. Globe,* 1st Sess., 39th Cong., 1865–66, p. 3383, col. 1.

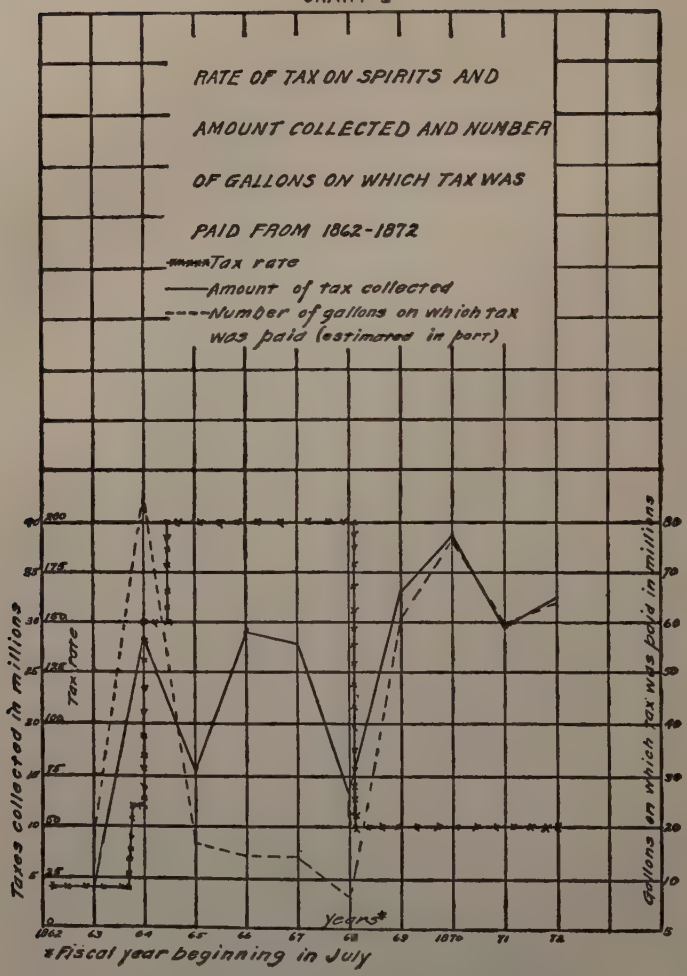
[2] Act of March 2, 1867, 14 *U.S. Stat. at Large,* p. 477.

[3] 14 *U.S. Stat. at Large,* p. 481. [4] Cf. Table XIX (Appendix).

[5] *Finance Report* (1865), pp. 79–80. Much of the tax collected in 1865 was at twenty and sixty cents a gallon, because great quantities of spirits were sold in the last ten days of June, 1864, and the tax was not paid until after July 1.

[6] Cf. Table XX (Appendix). [7] Cf. Chart I. (See p. 202.)

CHART I



It was also largely due to the frauds committed because the tax was so high that it offered great temptation to both the distillers and dealers in spirits and to the revenue officers.

Because the tax was not collected and such great frauds [1] were committed there was a pretty general feeling throughout the country that it was advisable to reduce the rate. The House Ways and Means Committee had undertaken to revise and combine into one all the internal revenue laws, and the bill was under discussion in the House of Representatives when the following resolution was passed: "*Resolved*, That in the judgment of this House it will inflict a serious loss upon the national revenues to delay the revision of the taxes on distilled spirits and tobacco until the same can be accomplished by a general revision of the entire internal revenue system; and the Committee of Ways and Means is hereby instructed to report without delay a separate bill for the revision of the taxes on the manufacture and sale of distilled spirits and tobacco." [2]

A bill was accordingly prepared, and when reported it called for a reduction of the tax from two dollars to sixty cents. The committee said they had put it at this point because they thought it would help to prevent illicit distillation.[3] There were a great many small illicit stills which were making spirits from molasses, and with the tax at sixty cents it was thought that the price of spirits would be so low that these distillers could not afford to operate.[4] The committee said that they desired not to make the tax so high on any one branch of the production as to offer temptation for violating the law, and accordingly, while lowering the direct tax on spirits, they had made up for part of the loss by increasing the indirect taxes, by raising

[1] *Infra*, pp. 212–17.

[2] *Cong. Globe*, 2d Sess., 40th Cong., 1867–68, pp. 3165–71.

[3] *Ibid.*, p. 3379, col. 3.

[4] It required one and one half gallons of molasses to make one gallon of spirits. As the molasses cost forty-five cents a gallon and it cost about ten cents a gallon to distill the spirits, the total cost of producing was about eighty cents per gallon. That was about the cost of producing a gallon of grain spirits, with the tax added, when the tax was sixty cents. *Ibid.*, p. 3400.

the special or license tax, and levying a *per diem* tax on the distilleries.[1]

A majority of the members of the House favored a reduction in the tax and a large number of the Representatives discussed the subject. The main emphasis of most of the speakers was on the frauds that had been committed under the two-dollar rate. There were several proposals for rates below sixty cents, and finally the committee's bill was amended making the tax fifty cents, and this rate was concurred in by the Senate. The tax on brandy from grapes was also lowered to fifty cents, and the Internal Revenue Commissioner, with the approval of the Secretary of the Treasury, was given authority either to tax or to exempt distillers of brandy from apples, peaches, or grapes, as in his judgment seemed expedient.[2] The indirect tax in the form of a special tax on distillers was made four dollars per barrel, amounting to about ten cents per gallon. The *per diem* tax was levied according to the capacity of the still. A still using not more than twenty bushels of grain or sixty gallons of molasses in a day was taxed two dollars; for each twenty bushels of grain or sixty gallons of molasses in excess of this amount, the tax was two dollars; and for every day that a still was, with the consent of the revenue officer, not operating, a tax of two dollars was levied.[3]

In the administration of the tax certain changes were made which it was thought would aid in preventing fraud. The offices of general and special inspectors were discontinued within ten days after the passage of the act. Twenty-five new officers were provided for, called supervisors of internal revenues. Each was assigned a territory over which he was responsible for the enforcement of the laws and in which he had the supervision of minor revenue officers. The Commissioner of Internal Revenues was authorized

[1] *Cong. Globe*, 2d Sess., 40th Cong., 1867–68, p. 3380, cols. 2–3.
[2] Act of July 13, 1868, 15 *U.S. Stat. at Large*, p. 125.
[3] 15 *U.S. Stat. at Large*, pp. 130, 150.

to employ not over twenty-five detectives and to assign them to such work as he saw fit. These officers were paid by the Government of the United States and not by the distillers.[1] The salary of the storekeeper, which had been paid by the distiller since that office was created in 1866, was made a charge upon the Government, because, as was said in the House, "it is contrary to sound policy that the officer should be any way responsible or under obligation to the distiller."[2] The only officer whose compensation was to be collected directly from the distiller, as in the former laws, was the gauger, and the reason for not making a change here was that these fees were "in the nature of costs and expenses attending the preparation of the tax-paid property for the market."[3]

This act went into more detail in the regulations provided than had any of the former laws. For example, every distiller, rectifier, compounder, or wholesaler of liquors was required to keep a conspicuous sign displayed outside of his establishment, stating the kind of business carried on there; a distiller was not permitted to have a wall or fence around his distillery more than five feet high;[4] a distiller, before his bond was approved, was required to furnish plans, in triplicate, of his distillery and apparatus;[5] and no rectifying establishment could be licensed within six hundred feet of a distillery.[6] At the first report for each month the assessor was required to determine whether all the spirits produced had been returned for taxation, and if not the collector was authorized to proceed to collect the same as in case of other assessments for deficiencies. The distiller was required in every case to pay taxes on a quantity of spirits equal to eighty per cent of the producing capacity of the distillery.[7] The penalties for violation of the

[1] 15 *U.S. Stat. at Large*, pp. 144–45.
[2] *Cong. Globe*, 2d Sess., 40th Cong., 1867–68, p. 3451, col. 3.
[3] *Ibid.*, p. 3452, col. 1.
[4] 15 *U.S. Stat. at Large*, p. 132.
[5] *Ibid.*, p. 128.
[6] *Ibid.*, p. 129.
[7] *Ibid.*, p. 134.

laws also went into more detail, the list being increased by thirty-four new penalties and several of the old ones were made more severe.[1]

One very important change made was the requirement that all casks containing spirits should be marked with engraved stamps, showing that the tax had been paid and the spirits had been properly inspected. These stamps were of five kinds: (1) The "distillery warehouse stamp" was affixed by the gauger, in the presence of the storekeeper, to every cask put into the warehouse, stating the name of the distiller, the number of proof gallons, the date at which it was received, and the warehouse number of the cask. (2) When the tax was paid and the spirits were to be removed from the warehouse, the "tax-paid stamp" was affixed by the gauger, in the presence of the storekeeper, showing the number of proof gallons, when and by whom the tax was paid, the warehouse number of the cask, and where and to whom the spirits were to be delivered. (3) A cask filled for sale or delivery on the premises of a rectifier had a stamp affixed by the gauger showing the name of the rectifier, the proof gallons, and the date when stamped. (4) On a cask filled for sale or delivery by any wholesale liquor dealer or compounder, the stamp affixed by the gauger showed the name of the compounder or dealer, the number of proof gallons, and the date when stamped.[2] (5) Any person owning over fifty gallons of spirits for sale when the act went into effect (September 20, 1868), on which the tax had been paid, was required to make a report of the same to the collector, and the gauger, after proving it, stamped it as stock on hand.[3] All these stamps, other than the "tax-paid stamps," were a charge on the owner of the spirits at the rate of twenty-five cents each.[4]

Conditions developed within a few months after the passage of this act which necessitated certain changes.

[1] Table XIX (Appendix).
[2] 15 *U.S. Stat. at Large*, pp. 135–37.
[3] *Ibid.*, p. 149.
[4] *Ibid.*, pp. 138, 150.

Although the new law was a great improvement on the old one, those who were desirous of defrauding the Government devised means to suit their purpose, especially in the rectifying business. Commenting on this subject the New York "Times" said: "The letter of the law [respecting rectifiers] is complied with, and we no longer find rectifying places within the prohibited distance from distilleries; but we discover that a new institution called a 'compounding shop' rises, phœnix-like, from the ashes of the one overthrown."[1] The continuation of this practice was stopped by an amendatory act, classifying compounders as rectifiers.[2] The Act of July 20, 1868, had provided that all spirits then stored in bonded warehouses should be withdrawn and the tax of fifty cents per gallon paid on or before April 20, 1869.[3] The amended act extended this time to June 30, 1869, with the provision that all which remained after April 20, 1869, should pay one cent per gallon a month until withdrawn, and that any which remained after June 30 should be forfeited to the Government.[4]

The tax on distilled spirits has continued as a part of our internal revenue system down to the present, the rate of the tax being changed several times. As it ceased at this time to be a war measure, we will turn our attention from the historical to other aspects of the tax.

(2) *Effect of the Rates on Revenue and on Consumption*

Attention has already been called to the fact that in 1865, 1866, and 1867, under the $1.50 and $2 rates, the increase in rates did not produce an increase in revenues.[5] The returns for 1868 show a decided falling-off, both in the amount of revenue and the number of gallons reported. The tax paid during the year on spirits distilled from

[1] January 1, 1869, p. 4, col. 4.
[2] Act of April 10, 1869, 16 *U.S. Stat. at Large*, p. 42.
[3] 15 *U.S. Stat. at Large*, p. 149.
[4] 16 *U.S. Stat. at Large*, p. 42.
[5] *Supra*, pp. 201–02.

materials other than apples, peaches, or grapes was only $13,419,092,[1] which at the rate of two dollars per gallon would be on 6,709,546 gallons.[2] It is possible that the number of gallons reported was slightly above this, as some of the liquor on which the tax was paid during this year may have been put in the warehouse when the rate was lower. The falling-off of receipts in this year was due to some extent to the general expectation that the tax would be reduced, and the consequent unwillingness to withdraw the spirits from bond under the high rate. However, it seems safe to say that the greater part of the reduction was the result of fraudulent distillation.[3]

The reports for 1869 and 1870 show clearly the advantage to the revenue of a lower rate.[4] The tax having been reduced to fifty cents per gallon, in 1869 the receipts were $33,225,212, and in 1870 they increased to $38,633,184, so that, when the rate was diminished by three fourths, the receipts were greater than they had been in any year under the higher rates, and two and one half times greater in 1869 than they were in 1868. Part of this increase may have resulted from the requirement that all the spirits in bonded warehouses on July 20, 1868, should be removed and the tax paid before June 30, 1869. It was also due, in part, to the fact that with the lower rate of taxation the temptation to defraud the Government declined; and many distillers who had been operating without a license, and many who were licensed but had not reported their entire output, found that the probable fraudulent gains were not sufficient to warrant a risk of detection and conviction. Another probable reason for increased income from this source was the more efficient collections due to the use of stamps.

[1] Cf. Table XX (Appendix). [2] Cf. Chart I, *supra*, p. 202.

[3] *Finance Report* (1868), p. 472; *ibid.* (1867), p. 272. Cf. *infra*, pp. 212–17.

[4] "Prior to the law of July 20, 1868, the Government did not collect a tenth part of its tax on distilled spirits." *Finance Report* (1869), p. 9.

It seems, from the study of the rates and returns for the eight years from 1863 to 1870, that the conclusion may be drawn that any tax ought not to be so excessive as to encourage fraud and evasion, and that a moderate tax well assessed will secure more revenue than a high rate with poor administrative machinery.

It is practically impossible to tell what effect the increase in rates had upon the use of spirits as a beverage, because it is known that there were large quantities produced on which the tax was never paid, and so it cannot be determined how much was consumed. It was argued at various times, when the question of rates was under discussion in Congress, that the moral effect of a high tax would be beneficial. There were many, however, who did not think that the increased price of liquors would have any great effect in curtailing the consumption. The experience of England and the countries of Continental Europe had been that the price of liquor had had very little effect upon the amount consumed.[1]

The Special Revenue Commission made a study of this subject, examining a large number of persons, especially manufacturers of and dealers in liquors, and revenue officers. Their report showed that there was a very wide discrepancy of opinion. The members of the commission were of the opinion that there was probably a very considerable reduction in the amount consumed by the poorer classes of the population when the tax was raised above sixty cents, but with people in better circumstances the amount used probably had not diminished and in some sections doubtless had increased. One class of people affected particularly by the enhanced price was the farmers. When whiskey was cheap, it was customary for farmers to buy it by the barrel for the use of their farm help, but when the price was increased to $125 a barrel, its free use was found

[1] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 216, col. 3; *Cong. Globe*, 1st Sess., 39th Cong., 1865–66, p. 2437, col. 1; *Finance Report* (1863), p. 67.

expensive and was discontinued to a very large extent. The commission also called attention to the fact that where whiskey had been given up, in many instances a substitute had been found. With many people this substitute was beer, but in many cases it was certain drugs such as opium and the extract of Indian hemp. There were also certain medicines which produced the stimulating effect of spirits and were used very extensively.[1]

The available evidence seems to point to the conclusion that the tax had some but not a great effect on the amount consumed. While a poor man could not buy so much at one time and keep a supply in his home all the time, yet he would buy oftener and pay the higher price, depriving himself and family of other things rather than do without his stimulant.

(3) *Effect of the Tax on Industry and on Science*

Mention has already been made of the fact that before 1862 large quantities of alcohol were used for industrial purposes.[2] It is of interest to notice the effect which the tax on spirits had on these industries. The Special Revenue Commission made some investigations in this field and their report shows that many lines of industry were injured. The commission estimated that the manufacture of burning-fluid required over 25,000,000 gallons of proof spirits in 1860. This product sold at from forty-five to sixty cents per gallon. By 1866 the consumption of burning-fluid had almost entirely ceased and the price had risen to four dollars per gallon. This advance in price was due in part to the high price of turpentine, and the decrease in consumption was due largely to the discovery of petroleum, but the high tax on alcohol had a decided effect on this industry.[3]

Although other lines of industry did not use such quan-

[1] *Ex. Doc. No. 62*, 1st Sess., 39th Cong., 1865–66, p. 12.
[2] *Supra*, p. 186.
[3] *Ex. Doc. No. 62*, 1st Sess., 39th Cong., 1865–66, p. 7.

tities of alcohol, they found it impossible to continue to use it to the same extent, when it was four dollars per gallon, that they had when its price ranged from thirty to sixty cents. The amount of production in many instances was not reduced, but the product was of a very inferior quality; for example, manufacturers of varnishes found that they could use benzole, spirits of turpentine, or wood naphtha for dissolving the constituent gums; and although the varnish made with these substances was not as good as the alcohol varnish, yet it could be sold so much more cheaply that it replaced to a large extent the better article. In other instances the amount of the product was greatly curtailed, as in the manufacture of vinegar from whiskey; and the vinegar which was produced advanced so much in price that the manufacture of pickles and of white lead was greatly reduced.

There were some lines of industry which were practically ruined by the high tax. "An instance in illustration of this may be mentioned in the manufacture of an article known as '*wallosin*' — a good substitute for whalebone in umbrellas — made of rattan saturated, under pressure, with a composition of alcohol and shellac. Owing to the high price of alcohol, the persons engaged in this manufacture have been compelled entirely to abandon it, with a heavy loss to themselves, and to the great loss and detriment of the makers of umbrellas."[1]

Another industry which was almost entirely destroyed was the manufacture of iron utensils enameled upon their interior surface. The substance forming the enamel was applied in the form of a paste, and up to 1866 no other substance than alcohol was found which could be used for preparing this paste.[2]

The influence of the high price was not altogether bad, for it stimulated the manufacturers to find substitutes for

[1] *Ex. Doc. No. 62*, 1st Sess., 39th Cong., 1865–66, p. 9.
[2] *Ibid.*, pp. 8–9.

alcohol. The "Commercial and Financial Chronicle" said: "Few of our readers, we suppose, have ever regarded the wire or the quilting on the brim of their hats as an invention for which they were indebted to the whiskey tax. Such compensations and developments, however, are familiar to those who have been accustomed to trace the effects of taxes on industrial operations and on ingredients entering into the processes of manufacture." [1] It also led to economy in the use of alcohol in certain lines of industry where no substitute was possible, the alcohol in waste substances being redistilled and used again.

The National Pharmaceutical Association represented that the use of alcohol by druggists in their general business had fallen off from one third to one half. The demand for medical tincture, perfumery, and proprietary articles was greatly reduced. Many physicians, because of the high price of fluid extracts, which were composed largely of alcohol, fell back upon the old usage of employing crude drugs and syrups. Oils and fats were substituted almost entirely for alcohol in the preparation of hair tonics.

It was also developed by the investigation of the Special Revenue Commission that the advancement of science had been greatly handicapped by the high tax on spirits. With the price of pure alcohol at $1.50 a gallon, the curators of some of the leading museums of anatomical and natural history said they were unable to make good the waste of this substance from evaporation and leakage, so that many important collections were becoming impaired in value. They also said that scientific study and research was being greatly impeded.[2]

(4) *Frauds*

The frauds and evasions in connection with the tax on spirits were probably more numerous and the loss to the

[1] Vol. 2, p. 291 (March 10, 1866).

[2] *Ex. Doc. No. 62*, 1st Sess., 39th Cong., 1865–66, pp. 10–11.

Government greater than in connection with any of the other internal taxes. As the tax was advanced from one hundred to one thousand per cent *ad valorem*, the temptation to fraud increased accordingly, and not only distillers and dealers, but also many revenue officers, fell before the temptation. The limits of space prevent citing here many specific cases.

The term "Whiskey Ring" was used very commonly to mean the combination of men who were working together to defraud the Government. As Mr. Van Wyck, of New York, used the expression in the House of Representatives, — "The whiskey ring . . . has stalked through the antechambers of this Hall, through the corridors of the Senate, and controlled the avenues to the Executive Mansion. While it directed the action it defied the power of the Government." [1] It is difficult, however, if not impossible, to determine just how much organization existed. There seem to have been two distinct classes of distillers who evaded the tax, and the members of one class had practically no dealings with the members of the other class. The first class "comprises the illicit distillers of whiskey from corn, wheat, rye, and barley malt, and who constitute the aristocracy of the profession. The second class includes the less pretentious outlaws, who surreptitiously produce whiskey from common molasses. There is as marked distinction between these two classes of criminals as existed between the patricians and plebeians of ancient Rome, and no intercourse or even recognition between them is countenanced." [2] While there doubtless was an organized ring among the first class of distillers using its influence to secure favorable legislation and corrupting the higher as well as the lower revenue officers, the second class was organized only so far as was necessary to protect themselves, in case of attack, by physical force.

[1] *Cong. Globe*, 2d Sess., 40th Cong., 1867–68, p. 3397, col. 3.
[2] Vidocq, *Secrets of Internal Revenue*, p. 63.

The molasses distillers were generally Irish of the lowest grade, and their distilleries were small, hid away in cellars, yards, or barns. They usually operated without procuring a license, and if necessary bought the protection of the lower revenue officers when they could. If their illegal acts were discovered and they could not corrupt the officers, they would use the most desperate means to protect their property from seizure. The nature of this class of distillers is best shown by two illustrations.

Illicit distilleries were so numerous in certain parts of Philadelphia that in October, 1867, the federal officials found it necessary to try to suppress them. Knowing the desperate character of the persons with whom they would have to deal, twelve deputy marshals and assistants armed themselves and went through the district in small squads, seizing stills, breaking up mash-tubs, and pouring the mash into the gutters. They did not meet with much open resistance at first, but as soon as the crowd saw that there were only a few officers, the women and children joined the men in offering resistance, and they were able to recapture nearly all of the property seized by the officers. It became necessary to call for the assistance of thirty marines to aid the officers in vindicating the law.

A more serious condition existed in Brooklyn in 1869. The section of the city known as "Irishtown" had long been notoriously bad, and all sorts of illegal practices flourished there. The policemen were either intimidated or corrupted, so that the laws were openly violated. In the early part of 1869, when a force of marines had tried to break up the secret distilling operations, they were beaten off by the mob and two officers were seriously wounded. On October 23, under the command of the collector of the district, eight hundred soldiers unexpectedly occupied Irishtown and began to break into distilleries. Several hours were occupied in this work, and it was estimated that the places broken up were capable of producing from three

hundred to four hundred gallons of liquor a day. The liquor which had been produced in these places had not only evaded the per gallon tax, but also the *per diem* and license taxes. When the troops started to leave, taking the spoils, consisting of whiskey and distilling apparatus worth several thousand dollars, the mob threatened violence until it became necessary to make a charge with fixed bayonets.[1]

The grain distillers were as a rule men of means, who secured a license and paid the tax on part of the spirits they distilled, but produced a great deal on which they did not pay any tax. These, in a way, were the more dangerous class, because they not only defrauded the Government of the revenue, but also exercised great influence over some of the higher revenue officers and over Congress. This class of distillers, with the officers who joined them in securing their illegal gains, composed the "Whiskey Ring." David A. Wells, in speaking of these frauds said, "Under the strong temptations of large and almost certain gains, men rushed into schemes for defrauding the revenue with the zeal of enthusiasts for new gold-fields; and the ingenuity of the American people has never had more striking illustrations than was offered in their devices for evading the tax and providing for security against detection and punishment in so doing. The parties concerned in these transactions also showed throughout more ability than Congress and more shrewdness than the revenue department of the National Treasury; and at a later period a Secretary of the Treasury was obliged to resort to the use of a cipher for his telegraphic and written correspondence, in order to prevent the frustration of his plans for the enforcement of the laws by treasury officials who were specially charged with their administration."[2] If the ring

[1] Vidocq, pp. 73–90.

[2] From letter of D. A. Wells to J. G. Carlisle, Secretary of the Treasury, dated July 8, 1893. In *Finance Report* (1893), pp. 1102–03.

could not secure the assistance of an officer they would resort to violence to get rid of him, as is illustrated by the attempt to assassinate Revenue Detective James J. Brooks in Philadelphia, on September 6, 1869, for which two men were convicted and sent to the penitentiary for seven years.[1]

Different methods were used by the "ring" to avoid paying the tax. The tax was supposed to have been paid before spirits were delivered to a rectifier, so that no tax was collected from the rectifier. To avoid paying most of the tax, a distiller would report part of the spirits he produced and pay the tax as required by law, but he would also have some facilities by which a large part of his output would be put through the rectifying process, without having been gauged, or proved, or the tax paid. It was for the purpose of preventing this evasion that the law of July 30, 1868, required that a rectifying establishment should not be within six hundred feet of a distillery, and gave authority to the revenue officers to break up any ground in order to look for pipes connecting two such places.

Another method that was often followed was to have a small still in connection with a vinegar factory. A license as a distiller, as well as a manufacturer, would be secured, and taxes would be paid on a small amount of spirits. No suspicion would be aroused when grain was taken to the place or when filled barrels were taken away, for it was supposed that the only grain used for distilling was such as was not fit for making vinegar. When investigations were made, it would often be found that a very small amount of vinegar was produced, and that the bulk of the article shipped in vinegar barrels was liquor on which no tax had been paid.

The provision of the law permitting drawbacks on spirits shipped abroad opened the door to fraud. In order not to interfere with the sale abroad of American-made articles,

[1] Vidocq, p. 32.

when an article on which an internal tax had been paid was exported, the tax was refunded. This provision applied to all articles exported, but the greatest frauds resulting from it were in connection with spirits. This method of cheating the Government could not have been carried on very extensively without the assistance of some of the Government officials, for no drawbacks were paid until evidence was presented, certified to by an official, that the tax had been paid. Special Commissioner Wells describes the method used by this class of defrauders as follows: The spirits would be properly inspected, gauged, and proved and a permit secured for the removal from the bonded warehouse, for the purpose of exportation. Then a poorly paid official would be corrupted so that he would permit the liquor to be drawn off and the barrels filled with water or very weak spirits. These barrels would then be shipped to some remote country where an inferior consul would give a receipt of a "landing certificate." The shipper would then collect the drawback and divide it among the interested parties, usually according to some plan previously agreed upon. In the mean time, the liquor had been disposed of in the United States, and the ports of several foreign countries held unclaimed American property.

Another form of fraud was brought about by the burning of bonded warehouses. The spirits stored in the warehouse would be secretly removed and then the warehouse would be burned. The bonds would then be canceled when it was proved that the spirits had been destroyed in the fire. This evidence was often wholly fraudulent, but was so strongly supported by perjury as to be very difficult to disprove.[1]

(5) *Criticisms*

Considering the tax on spirits in the light of the experience of the period we are studying, several faults can be found with the early laws, some of which were pointed out

[1] Wells, *Practical Economics*, p. 204.

when the bills were being discussed, but which became more emphasized when the laws went into force. One of the matters to which reference has already been made[1] was the provision that a new tax should not apply to the spirits already produced. Mr. D. A. Wells, in a letter to Secretary Carlisle, said: "In short, all the available evidence indicates that the profits realized by distillers, dealers, and speculators, through congressional legislation having reference to the taxation of distilled spirits from July 1, 1862, to January 1, 1865, — a period of two and a half years, — and exclusive of any gains accruing from evasion of taxes, and with every allowance for over estimates, must have approximated $100,000,000."[2]

The great fault lay in exempting the spirits on hand when the Act of July 1, 1862, was passed. If this had not been done, probably a few persons who had bought spirits at advanced prices in anticipation of a tax being levied would have suffered. However, the producers who still held their liquors would not have been injured, as the amount of tax was added to the price of the spirits. Each time that the tax was raised and the increase was not made to apply to the stock on hand, the precedent was strengthened which encouraged men to invest in spirits with the expectation that the tax would be made higher and large profits would be realized from the adventure. The longer this principle was followed, the greater became the number of persons who would have been injured if a change had been made.

Another fault lay in applying a low tax at first with a tacit understanding that it was to be increased. It probably would have been impossible, because of the lack of proper machinery, to have collected a very high tax at first, but the understanding that the tax was to be increased and that the increase was not to apply to the stock on hand produced much injury to business. Before an

[1] *Supra*, pp. 188–89 and 193–94.

[2] Date of letter, July 8, 1893, in *Finance Report* (1893), pp. 1101–02.

increased rate was to go into effect, every possible effort would be made to increase the output — the promise of large profits being very attractive to capital — and other business would suffer, from lack of sufficient capital. Then, as soon as the extra tax went into operation, distilleries were shut down and much capital had to lie idle until the prospects of another change in the law produced renewed operations.

One evil which was largely done away with by the law of July 20, 1868, was the sytem of paying several of the officials with money collected directly from the distillers for that purpose. The money was usually collected by the regular collector of the district along with other taxes and then paid to the inspectors, gaugers, and storekeepers, but the officers knew where it came from and were inclined to feel more favorable to the distillers, at times, than was good for the best interests of the revenues.

The administration often suffered because of incompetent officials. In one instance, at least, an assessor was appointed who did not possess sufficient intelligence to understand and use correctly either a gauging-rod or a hydrometer. It was sworn to before the Revenue Commission that the determination of the strength of spirits, preparatory to assessment, was often made by mere physical inspection or taste and that the use of instruments was regarded as wholly unnecessary.[1]

However, it should be said that with time the acts themselves and the administration improved so that the law of July 20, 1868, eliminated many of the flaws of previous acts. It was by no means perfect, as is shown by the operations of the great whiskey ring of Missouri,[2] but the safeguards and penalties it provided did much to discourage frauds against the revenues.

[1] Wells, *Practical Economics*, pp. 203–04.
[2] Cf. McDonald, *Secrets of the Great Whiskey Ring*, chaps. i–x.

(6) *Shifting of the Tax*

As the tax on spirits was very high when compared to the cost of production, — after 1864 being about one thousand per cent *ad valorem*, — the attempt to shift it was easily detected. In the following table the tax rate and the price of alcohol are given, both in currency and in their value when reduced to the gold basis. As first proof spirits contain fifty per cent alcohol, the tax on pure alcohol was just double the rates given in the laws.

ALCOHOL [1]

Date	Tax per gallon in greenbacks	Tax per gallon in gold	Price per gallon in greenbacks	Price per gallon in gold	Gold values of greenbacks [2]
1861, January	–	–	–	$ .40	–
April	–	–	–	.36	–
July	–	–	–	.34	–
October	–	–	–	.40	–
1862, January	–	–	$ .40	.39	97.6
April	–	–	.48	.47	98.5
July	$ .40	$ .35	.58	.50	86.6
October	.40	.31	.66	.51	77.8
1863, January	.40	.28	.77	.53	68.9
April	.40	.26	.94	.62	66.0
July	.40	.31	.87	.66	76.6
October	.40	.26	1.04	.70	67.7
1864, January	.40	.26	1.85	1.19	64.3
April	1.20	.69	2.05	1.18	57.9
July	3.00	1.16	3.55	1.37	38.7
October	3.00	1.45	3.45	1.83	48.3
1865, January	4.00	1.85	4.40	1.94	46.3
April	4.00	2.69	4.30	2.89	67.3
July	4.00	2.82	4.10	2.89	70.4
October	4.00	2.75	4.50	3.09	68.7
1868, January	4.00	2.88	4.25	3.06	72.2
April	4.00	2.88	4.25	3.06	72.1
July	1.00	.70	2.35	1.64	70.1
October	1.00	.73	2.70	1.96	72.9

[1] Aldrich, *Report on Wholesale Prices, Wages and Transportation*, vol. 2, p. 245.
[2] These are the monthly averages of the gold values of the greenbacks as given by W. C. Mitchell, in *Gold, Prices, and Wages, under the Greenback Standard*, pp. 5–8.

These figures show that with each increase in the tax rate, the greenback price of alcohol was raised and that

when the tax was lowered in 1868, the price was also lowered. Owing to the changing value of paper money, the attempt to shift the tax was not always successful, as in January and July, 1865, when the gold price was not sufficient to cover the cost of production with the tax added. At other times, as in January and April, 1864, and in July and October, 1868, not only was the tax collected from the consumer, but also a very large profit besides. However, the very great increase in the price of alcohol after 1862 shows that the tax was being passed on to the consumer, for the depreciation of the greenback was not sufficient to explain the advance of 1125 per cent in the price from January, 1862, to October, 1865. As there was, however, much liquor produced the tax on which was evaded, the price did not always advance as rapidly as the tax. For example, "during the greater part of the year 1865 the market price of distilled spirits (proof) was less than the cost of manufacturing with the tax of $2 per gallon added, the quoted rates for a short period having been as low as $1.95 per gallon." [1]

B. Fermented Liquors

Fermented liquors being also alcoholic beverages, they were made subject to a tax at the same time that spirituous liquors were. As the amount of alcohol contained in ale, beer, and other fermented liquors was much less than the amount in spirits, as a rule, the former were considered less harmful and the duty was made lower so as to give no advantage to the stronger beverages.[2] The first bill that was introduced, proposing to tax such liquors, placed the rate at one dollar per barrel of thirty-one gallons. Amendments were offered both to increase and to reduce this rate,[3] but no change was made.

[1] *Commercial and Financial Chronicle*, vol. 2, p. 290 (March 10, 1866).
[2] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 1195, col. 2.
[3] Mr. Fessenden wanted the tax increased because of the moral effect

This act was in force for only nine months, for by Act of March 3, 1863, the tax was lowered to sixty cents per barrel until April 1, 1864, after which date it was again one dollar. Again by the Acts of June 30, 1864, and July 13, 1866, the rate was made one dollar per barrel.

Before 1866 the tax was collected by the collector upon assessments made by the assessor, as were other internal taxes. However, by the law of this year a change in administration was made, so as to prevent fraud more successfully. By this change all liquors on which the tax had been paid were required to be stamped and a deduction of seven and one half per cent was granted on all stamps bought, to allow for leakage. The person who affixed the stamp was required to cancel it by writing his initials and the date on it. The stamps were to be so affixed across the tap of the barrel as to be destroyed when the liquor was withdrawn.[1] This same act provided a number of penalties for attempting to defraud the Government by not paying the tax.[2]

It was argued that the tax on beer should be low so that it would be used instead of distilled spirits as a beverage. Hon. W. F. Switzler, at one time Chief of the Bureau of Statistics at Washington, prepared the following comparative table showing the per capita consumption of spirits and beer: —

SPIRITS

Year	Per capita consumption in gallons	Rate of tax
1860	2.86	$ .00 per gallon
1887	1.19	.90 per gallon

BEER

Year	Per capita consumption in gallons	Rate of tax
1860	3.22	$ .00 per barrel
1887	11.98	.92½ per barrel

it would have. He said that more harm was done by malt than by spirituous liquors because young men started the habit by drinking beer. *Cong. Globe*, 2d Sess., 38th Cong., 1861–62, p. 1312, col. 2.

[1] Act of July 13, 1866, 14 *U.S. Stat. at Large*, p. 166.

[2] Cf. Table XXI (Appendix).

Mr. William H. Armstrong drew the conclusion from these figures that the decrease in the use of spirits and the increase in the use of beer was due to the high tax on spirits and the low tax on beer.[1] It seems, however, that this is an overstatement, for much greater quantities of spirits were used for industrial purposes in 1860 than in 1887. According to the estimates of the Revenue Commission,[2] over six tenths of a gallon per capita of first-proof spirits was used in 1860 for the manufacture of burning-fluid, and this product was practically unknown in 1887. Also the consumption of beer has continued to increase, and in 1900 the per capita consumption was over sixteen gallons. The tax on spirits had increased twenty cents on the gallon from 1887 to 1900, but as a result of the Spanish-American War the tax on beer has been doubled.

[1] Armstrong, *National Internal Revenue in its relation to Temperance and Prohibition*, p. 30.

[2] *Ex. Doc. No. 62*, 1st Sess., 39th Cong., 1865–66, p. 7.

CHAPTER IX

TAXES ON MANUFACTURED ARTICLES AND PRODUCTS

(1) *History*

"SEEKING to avoid all extremes, the committee have thought best to propose duties upon a large number of objects, rather than confine them to a narrow field, and thereby be forced to make them excessive in amount, and for that reason entirely unreliable. If the rates can be hereafter increased in any instance to the benefit of the revenue, and without inflicting any injury upon any quarter of the country, it will soon be ascertained."[1] This, according to Mr. Morrill, was the reason which induced the Ways and Means Committee, in 1862, to report a bill in the House of Representatives providing a low excise tax on practically all manufactured articles. Secretary Chase had recommended that a tax be levied on distilled spirits and tobacco,[2] but the committee, realizing that the necessities of the Government demanded a very large revenue, went far beyond the Secretary's suggestion.

The taxes proposed by the bill were of two kinds — specific and *ad valorem*. The idea seemed to be to levy the tax according to the method by which the assessment and collection could be the more easily accomplished, so long as it worked no great injustice. Therefore, on articles which were all of the same quality, as salt, turpentine, and white lead, the specific rate was applied. Articles such as tobacco, steel, and soap, which varied in quality, but were susceptible of classification, were also subject to specific taxes. The *ad valorem* rates were applied to those articles

[1] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 1195, col. 1.
[2] *Finance Report* (1861), p. 15.

particularly whose values varied so much as not to be easily classified, such as umbrellas, paints, and paper.

During the discussion of this bill, there was practically no debate on the general principle of taxing manufactured articles in either chamber of Congress, but the arguments for and against taxing certain specific articles were quite extended. Most sections of the country were especially interested, either directly or indirectly,[1] in the production of one or more of the articles which the committee proposed to tax. As a rule, the members of Congress were anxious to have the products of their State or district protected from high taxes, while they were, at least, indifferent with regard to the taxation of products of other States. Therefore, the debate was largely sectional in its character, and the broader principle, whether the taxation of a specific article would be a benefit or a detriment to the entire country, was practically ignored.

This portion of the bill, as reported by the committee, included a tax on only one article which was not a manufactured product, and that was on leaf tobacco at the rate of three cents a pound. However, an amendment was proposed by the Ways and Means Committee to strike out this paragraph, because they thought it better to confine the tax to manufactured articles.[2] This amendment was adopted. Some other members of the House were not so anxious to restrict the tax to manufactured articles and accordingly amendments were offered to tax coal and cotton. Objections were made to taxing coal, because it was not a manufactured product; because it was very cheap at the mines, and the enhanced price was due to the high

[1] There were two reasons for the indirect interest of some of the States: (1) The States which consumed large quantities of manufactured articles were afraid that the tax would be shifted by the producers on to them and they would suffer, although they did not have the factories. (2) The prosperity of certain factories depended upon the use of articles which it was proposed to tax.

[2] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 1439, col. 2.

charges for transportation; and because it was considered an erroneous policy to strike at the *sources* of power. But the House was not convinced that such a tax was not a good thing, and the amendment was adopted.[1] The act as finally passed applied the low rate of only three and one half cents per ton.[2] The tax on raw cotton was proposed because it was the one article of the Southern States on which it was thought a revenue could be raised. It was opposed, especially by the members of Congress from the New England States, because they believed that it would be injurious to their cotton mills.[3] The rate first proposed was three cents per pound, but as adopted it was only one half cent.[4]

The act required that every person or firm engaged in the business of manufacturing should furnish a statement to the assistant assessor showing the proposed place of business, the name of the article to be produced, and whether it was for domestic or foreign market. Returns were to be made and taxes paid monthly, and, if not paid within ten days after demand was made, they became a lien upon the real and personal property of the manufacturer. Refusal to comply with these requirements was punishable with forfeiture of the manufactured articles and a penalty of $500. There was an exemption provided for all goods, wares, and merchandise made by a person for his own use and consumption, and also for goods made for sale, up to the value of $600, except spirituous and malt liquors and manufactured tobacco.[5]

The law designated a great many articles and the rate of the tax levied on them. In a majority of cases the tax was specific and varied from one mill to ten dollars, according to the kind and value of the article. In those cases where

[1] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, pp. 1408–11.
[2] Act of July 1, 1862, 12 *U.S. Stat. at Large*, p. 462.
[3] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, pp. 1412–14.
[4] 12 *U.S. Stat. at Large*, p. 465. [5] *Ibid.*, pp. 460–62.

the tax was *ad valorem*, it varied from three per cent to five per cent; the majority of cases being at the lower rate.[1] There was then added a sort of an omnibus clause intended to cover a majority of all manufactures not specifically designated. It read: "On all manufactures of cotton, wool, silk, worsted, flax, hemp, jute, India-rubber, gutta-percha, wood, willow, glass, pottery-ware, leather, paper, iron, steel, lead, tin, copper, zinc, brass, gold, silver, horn, ivory, bone, bristles, wholly or in part, or of other materials, not in this act otherwise provided for, a duty of three per centum *ad valorem*." [2] This clause necessitated a great many rulings and decisions by the Commissioner of Internal Revenues. Whenever a manufacturer thought it possible that his product might not be included in this general clause, an appeal was made to the Commissioner. These numerous and detailed rulings cannot be discussed here,[3] but one important decision should be mentioned. Articles manufactured by a State, as in a penitentiary, under the direction of state officers, for the benefit of the State, without the intervention of contractors, were not subject to the tax.[4]

The following year, when the revenue law was amended, most of the taxes on manufactured articles were left unchanged. The specific taxes on refined sugar and clock movements were dropped and *ad valorem* rates applied. The rates on umbrellas and slaughtered animals were reduced, and those on confections were increased. Several articles, some of which had been taxed under the general three per cent rate, were added to the list with specified taxes. The Act of 1862 had made two classes of both smoking and chewing tobacco.[5] It was argued in both the House and the Senate that this led to fraud, because in returns for taxation some of the better grade was reported

[1] 12 *U.S. Stat. at Large*, pp. 462–65. [2] *Ibid.* p. 466.
[3] A full list of rulings is given in Boutwell (1863), pp. 321–38.
[4] *Ibid.*, p. 328. [5] Table XXIII (Appendix).

as of the second class, and paid the lower tax.[1] To prevent these frauds the amended act discontinued the lower rates of taxation, and all tobacco, whether for smoking or for chewing, was assessed at the higher rate for that kind.[2]

During the discussion of this bill in the House, several proposals were made for taxing only the increased value of an article when its constituent parts had already been taxed as manufactured articles.[3] Mr. Morrill, of the Ways and Means Committee, opposed this, as a general principle, for two reasons. First, he said that it would reduce the revenues very materially and the needs of the Treasury would not admit of any reduction; and second, because it would put an "impossible" task upon the assessors to calculate the amount of the tax.[4] None of these amendments was carried. The bill, however, as reported by the committee and passed by both chambers provided, "That spokes, hubs, felloes, grindstones, coke, silver bullion, rolled or prepared for platers' use exclusively; materials for the manufacture of hoop-skirts exclusively, and unfitted for other use (such as steel wire, rolled, tempered, or covered, cut tapes, and small wares for joining hoops together); spindles, and castings of all descriptions, where made exclusively for instruments, articles, or machinery upon which duties are assessed and paid, shall be exempt from duty; and all goods, wares, and merchandise, and articles made or manufactured from materials which have been subject to and upon which internal duties have been actually paid, or materials imported upon which duties have been paid, or upon which no duties are imposed by law, where the increased value of such goods, wares, and merchandise, and articles so made and manufactured, shall not

[1] *Cong. Globe*, 3d Sess., 37th Cong., 1862–63, pp. 1319 and 1457.
[2] Act of March 3, 1863, 12 *U.S. Stat. at Large*, p. 717.
[3] *Cong. Globe*, 3d Sess., 37th Cong., 1862–63, pp. 1315–17.
[4] *Ibid.*, pp. 1315, col. 3, and 1316, col. 1.

exceed the amount of five per centum *ad valorem*, shall be, and hereby are, exempt from duty." [1]

Commissioner Lewis, in his annual report for 1863, made several suggestions with regard to the tax on manufactured articles. He thought that the tax on cotton might be quadrupled without being oppressive; that the tax on slaughtered animals might be adjusted on a different scale at higher rates without becoming onerous; that a number of articles used for building purposes and for printing might be subjected to the tax;[2] and that the tax on general manufactures might be increased from three per cent to five per cent.[3] He also called attention to one part of the law which was the cause of some difficulty. It was the provision which allowed an exemption of goods made by a person for his own use. The Internal Revenue Commissioner had supposed that this clause was qualified by the clause limiting the amount of annual products which were exempt to $600; but a number of railroad companies, and other large operators who manufactured locomotive engines, railroad cars, paper for printing, and many other articles consumed by them in the prosecution of their business, embracing in the aggregate the value of millions, had insisted that the $600 limitation applied only to articles that were sold and not to those consumed by the manufacturer. The Commissioner had instructed the assistant assessors that in case a railroad company did not make returns, assessment should be made and the collectors should collect by distraint and sale of goods and effects of the company.[4] He therefore suggested that the law be so changed as to state plainly that the $600 limitation applied to all articles manufactured, whether sold or consumed by the producer.[5] Congress followed his suggestion by providing that any articles which, if sold,

[1] 12 *U.S. Stat. at Large*, pp. 728–29.
[2] *Finance Report* (1863), p. 69.
[3] *Ibid.*, p. 74.
[4] Boutwell (1863), p. 336.
[5] *Finance Report* (1863), p. 69.

would be taxed, should be taxed at their salable value, above $600, if consumed.[1]

The House Committee on Ways and Means in reporting a bill followed most of the suggestions made by the Commissioner. The one important point in which they differed from him was in the taxation of tobacco. He suggested that a tax of twenty cents a pound be put on leaf tobacco and no drawback allowed when it was exported; and that a small additional tax be imposed on manufactured tobacco.[2] The committee thought it would be impracticable to collect the tax on leaf tobacco and therefore proposed to put all of it on the manufactured article,[3] and to increase the existing rates considerably. The bill also proposed to tax a number of articles which previously had been exempt.

As with the previous bills, so with this one, the debates were influenced very largely by sectional interests. The House was inclined to impose higher rates in some cases, especially on iron, than the Ways and Means Committee had proposed. There was not much opposition to these higher rates on iron, except that certain members thought that the change should not be made unless the import duties were raised proportionately, so as to protect the home industry.[4] The rates to be levied on cigars caused a great deal of discussion. The law of July 1, 1862, had provided for taxes according to the value of the cigars. Cigar-makers held that the value according to which the tax was assessed should be the selling price of the cigars, without the tax added. If they shifted the tax by increasing the price of cigars, the makers contended that they should not be required to pay a tax on this increase in price. Assessors, on the other hand, were following the custom of valuing them with the tax added.[5]

[1] Act of June 30, 1864, 13 *U.S. Stat. at Large*, p. 264.
[2] *Finance Report* (1863), p. 66.
[3] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 1717, col. 2.
[4] *Ibid.*, pp. 1824–25.
[5] *Ibid.*, p. 2705, col. 1.

Of course, in some cases this made no difference in the tax, but in others it made considerable difference. For example, if a man had cigars which were valued at $18 per thousand, according to his interpretation of the law the tax would be $2.50. However, if the $2.50 was added to the price before the tax was levied, the value would then be $20.50, and the tax on that grade of cigars was $3.50; and this was the principle the assessors were following. The new bill proposed different classifications with much higher rates, which would greatly increase this difficulty. An amendment was offered in the House, providing that the value on which the tax was levied should not include the tax, but it failed to pass. Mr. Boutwell said that such an amendment was useless, as that was plainly the meaning of the law.[1] The same question came up in the Senate and an amendment was passed [2] and concurred in by the House, providing that "the valuation of cigars herein mentioned shall in all cases be the value of the cigars exclusive of the tax." [3]

The act as approved increased most of the taxes about sixty-six per cent. The rates on coal oil, lard oil, and gas were doubled, and on tobacco and cigars they were more than doubled.[4] The list of articles taxed was greatly increased, and there seems to have been a preference for the *ad valorem* rather than the specific rate. Two new taxes were added to which special attention should be called: (1) On all repairs of engines, cars, carriages, or other articles, if the repairs increased the value ten per cent, a tax of three per cent of the increased value was levied.[5] (2) Whenever any manufactured article on which an excise or import duty had been paid was increased in value, "by being

[1] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 1836, cols. 2–3.
[2] *Ibid.*, 1863–64, pp. 2704–05.
[3] 13 *U.S. Stat. at Large*, p. 270.
[4] For rates on tobacco and cigars see Table XXIII (Appendix).
[5] 13 *U.S. Stat. at Large*, p. 267. The tax on repairs of ships or vessels was only two per cent.

polished, painted, varnished, waxed, oiled, gilded, electrotyped, galvanized, plated, framed, ground, pressed, colored, dyed, trimmed, ornamented, or otherwise more completely finished or fitted for use or sale," a duty of five per cent was levied on the increased value of the finished article.[1]

The general administration of the tax was not changed, except that a manufacturer, in making a report of his business, was allowed on articles sold to deduct the freight from the factory to the place of delivery, and also a commission of not over three per cent if actually paid for the negotiation of the sale. The exemption limit was left at $600, but any manufacturer whose annual production was between $600 and $1000, was taxed only on the excess over $600. Special provisions were made for taxing tobacco. Besides paying a license tax, a person engaged in the manufacture of cigars, tobacco, or snuff was required to secure a permit from the assessor for operating his factory. He was also required to make a special statement to the assessor, stating his place of business, kind of work he proposed to do, and where he proposed to sell his product. Several penalties were provided for any failure to comply with these requirements.[2] In order to secure a more thorough collection of the tax on cigars, it was required that they should be packed in boxes, bundles, or packages, open to inspection, and after being inspected an inspection stamp should be affixed in such a way that it would be destroyed in opening the package.[3]

Commissioner Lewis, in his report for 1864, made several suggestions with regard to taxes on manufactured articles, but the one on which he put the most emphasis was the method of taxing tobacco. He repeated his suggestion of the year before, that the bulk of the tax should be put on the leaf and then a low *ad valorem* duty should be added on the manufactured product. He thought that the tax

[1] 13 *U.S. Stat. at Large*, p. 272.
[2] *Ibid.*, pp. 261–64.
[3] *Ibid.*, pp. 270–71.

could be collected with greater certainty in that way than by putting all the tax on the manufactured product.[1] The House Ways and Means Committee when they reported their bill said that they had given considerable attention to the investigation of this proposition and thought it unadvisable to change from the method then in vogue.[2]

The Commissioner reported that the provision made in the law of June 30, 1864, that the rate on cigars should be determined on the value exclusive of the tax, had failed to accomplish the object desired. In many cases it was impossible for the assessor to determine, from the price at which cigars were sold, what the value was exclusive of the tax. He set forth the difficulty with the following example: "Take the case, for illustration, of a thousand cigars selling for $12. The sale ascertains the value, and the question is, What is the tax? It must be either $3 or $8. If it is $3, then the cigars, exclusive of the tax, are worth $9. But cigars valued at over $5 per thousand, exclusive of the tax, must pay $8. Then put on the tax of $8, and the value of the cigars we find to be $4, and it will not, therefore, bear the $8 tax."

This same difficulty existed in relation to cigars selling at any price between $8 and $13, between $22 and $30, and between $70 and $85. Another result of this method of taxation was that it was more profitable for a manufacturer to sell his cigars at $11 per thousand than at $15; at $25 than at $31; at $69 than at $85, and at $84 than at $98.[3]

In the House the Ways and Means Committee attempted to remedy this evil by doing away with different classes of cigars and levying a common tax of sixty cents per pound, which would amount to about $10 per thousand cigars.[4] This plan passed the House, but the

[1] *Finance Report* (1864), pp. 62–63.
[2] *Cong. Globe*, 2d Sess., 38th Cong., 1864–65, p. 696, col. 3.
[3] *Finance Report* (1864), p. 62.
[4] *Cong. Globe*, 2d Sess., 38th Cong., 1864–65, p. 696, col. 3.

Senate amended it by providing two classes.[1] However, the conference committee followed the plan of the Ways and Means Committee, and did away with all classifications making the tax $10 per thousand cigars.[2]

The Commissioner also reported that great difficulty was found in determining who was liable for the tax on printed books, magazines, and similar publications, because often several different persons or firms each had a part in the production of a publication. This was the case when the printing was done by one party and the binding by another under a contract with the publisher, who sometimes furnished the paper to the printer.[3] This uncertainty was settled by providing that the tax should be collected from the publisher.[4]

The House Ways and Means Committee proposed some other important changes. They thought that cotton would stand a higher tax and wanted it increased to six cents per pound with no drawback allowed;[5] but the Senate would not consent to any increase in this tax.[6] The Commissioner had suggested a tax on crude petroleum,[7] and the committee put it at six cents a gallon,[8] but on compromise with the Senate the rate was made one dollar per barrel of not over forty-five gallons, with no drawback allowed on exportations.[9] A few of the specific duties were increased, and then a clause added increasing all other specific and *ad valorem* duties twenty per cent, except on refined coal oil, naphtha, benzine, bensole, wood screws, paper, printed books, reviews and similar publications, cotton, and all kinds of tobacco.[10]

Although the later acts were drawn up more skillfully

[1] *Cong. Globe*, 2d Sess., 38th Cong., 1864–65, p. 1175, col. 1.
[2] *Ibid.*, p. 1405, col. 3.
[3] *Finance Report* (1864), p. 65.
[4] Act of March 3, 1865, 13 *U.S. Stat. at Large*, p. 476.
[5] *Cong. Globe*, 2d Sess., 38th Cong., 1864–65, p. 695, col. 3.
[6] *Ibid.*, p. 1406, col. 1.
[7] *Finance Report* (1864), p. 64.
[8] *Cong. Globe*, 2d Sess., 38th Cong., 1864–65, p. 696, col. 1.
[9] *Ibid.*, p. 1405, col. 3.
[10] 13 *U.S. Stat. at Large*, pp. 483–84.

than the first ones, and the classification of articles was made more definite, so that the assessors were able to determine more readily the proper tax, nevertheless many questions were sent to the Commissioner for an opinion. These decisions were mostly with regard to what the rate should be on some particular article and need not be given in detail here.[1] While the war lasted and large revenues were necessary, these taxes were borne without a great deal of complaint; but as soon as the demands on the Treasury ceased to be so heavy, a feeling began to develop that the taxes on the necessities of life should be lowered or abolished just as rapidly as possible. The Special Revenue Commission gave considerable time and energy to the study of this subject, making special reports on the excise duties on cotton, sugar, petroleum, copper, iron and steel, and wood.[2]

The Commission expressed the opinion that the existing condition of the revenues warranted certain reductions and changes in rates. They, therefore, recommended in their general report five changes which would affect the taxes on manufactured articles: —

(1) "A repeal of all that part of section 94 of the amended Act of March 3, 1865, which provides for the assessment and collection of taxes on repairs of engines, cars, carriages, ships, etc."[3] The tax was objectionable because it was levied on prudence and economy and could be justified only in the case of greatest necessity. Another objection to it was that it was very hard to levy the tax properly. Many men who did repair work also made new

[1] Cf. decisions in 5 *I.R.R.*, pp. 115, 123, 147, 154, 170, 180, 204, and 6 *I.R.R.*, pp. 3, 10, 66, 139, 162, 178, 210, 218.

[2] These are the special reports numbered 3, 4, 7, 11, 12, and 13, and are found in full in *Reports of a Commission appointed for a Revision of the Revenue System of the United States, 1865–1866*, pp. 72–137, 138–55, 225–63, 294–313, 313–46, 347–480.

[3] *Ex. Doc. No. 34*, 1st Sess., 39th Cong., 1865–66, p. 37. The quoted sentences in this and the two following pages were italicized in the original.

articles. In order that the tax might be properly levied, it was necessary for a man to keep a very detailed account of all of his transactions. If he made a new article, he was taxed one rate, if he repaired an article, he was taxed another rate, providing the value was increased ten per cent by the repairs, but if it was not, he was not taxed at all. The tax also worked an injustice to the owner of small cheap articles. If a piano worth five hundred dollars, was repaired, no tax was levied unless the repairs cost fifty dollars, while a repair costing ten cents on a wheelbarrow worth one dollar was taxable. There were some instances in which it was practically impossible to know how or when a tax was to be levied on repairs. If the owner of a carriage sent it to a blacksmith, then to a painter, and then to an upholsterer, each might make repairs equal to seven or eight per cent of the value, so that the entire repairs would equal twenty per cent, and yet none of them could be held for the tax and it was doubtful whether the owner could be held for the tax as a manufacturer.

(2) "A repeal (subject to certain exceptions) of all that part of section 94 which provides for the assessment and collection of taxes on wearing apparel." [1] The reasons for recommending the repeal of these taxes were that they were levied on necessities of life, thus grinding down the poorer classes of the population; and that few of the taxes gave the assessors and collectors more trouble and annoyance than these. Many of them were collected in very small amounts from small and poor milliners, dressmakers, and shoemakers, in a manner unworthy the dignity of a great nation.[2]

[1] *Ex. Doc. No. 34*, 1st Sess., 39th Cong., 1865–66, p. 39.

[2] In September, 1865, the collectors' books for the Eighth District of New York shows the following, *Ex. Doc. No. 34*, p. 39, note: —

	Amt. of tax
Louisa Epstein, milliner	$1.04
Sarah Abernethy, dressmaker	1.20
E. Gallagher, milliner	1.58
Ann Furman, dressmaker	1.75
Nathan Stern, manufacturer of cloaks	.42

(3) "A repeal of the excise duty of two dollars and forty cents per ton levied upon pig iron; the repeal of the duty of six cents per ton levied on mineral coal; and of the duty of one dollar per barrel on crude petroleum."[1] These taxes were levied on raw material, not manufactured products, and it was for the advantage of the country that their production and sale should be encouraged rather than hindered.

(4) "A repeal of all excise taxes on printed books, magazines, pamphlets, reviews, and all other similar printed publications."[2] The taxes on these articles operated as a tax on the diffusion of knowledge and information, which could be justified only at times of greatest necessity; and besides they were not very productive of revenue, yielding only $354,528 in 1865.

(5) "The taxes levied and paid upon all goods, wares, and merchandise, enumerated in section 94 of the amended Act of March 3, 1865, be reduced fifty per centum; and that no allowance or deductions whatever, in the payment of the same, for freight, commissions, and other expenses of sale, be authorized or permitted."[3]

In their special report on cotton the members of the commission further recommended that the tax on cotton be increased to five cents per pound,[4] and that instead of being collected from the grower, it be collected from the manufacturers and exporters.[5] Their recommendations in the report on sugar were that the three per cent tax on the gross sales of refiners be repealed, and that, in lieu thereof, the tax on cane sugar be increased to one and one half cents per pound, and on molasses to two cents per gallon.[6]

The House Ways and Means Committee agreed with the Revenue Commission in the desire to relieve from taxation

[1] *Ex. Doc. No. 34*, 1st Sess., 39th Cong., 1865–66, p. 40.
[2] *Ibid.*, p. 40. [3] *Ibid.*, p. 41.
[4] *Report of the Revenue Commission* (1865–66), p. 77.
[5] *Ibid.*, p. 79. [6] *Ibid.*, p. 149.

some of the necessities of life, and to retain the taxes on luxuries so long as large revenues were needed.[1] However, they differed to a certain extent with regard to what taxes should be changed and as to what should be the rates of reduction. Instead of repealing all taxes on wearing apparel, they proposed to retain them, but at reduced rates;[2] the general reduction proposed by the committee was only twenty per cent[3] instead of fifty per cent. The tax on sales of sugar by manufacturers was retained, and the rate on sugar reduced to one cent, one and one half cents, and two cents a pound according to the quality.[4] The committee proposed also to exempt a great many articles which had not been recommended by the commission.[5]

In the main features the bill was passed as presented by the Ways and Means Committee, but some changes were made by the House. Now that a reduction in the revenue was possible, almost every member of Congress was interested in having some particular tax reduced or repealed because it affected his constituents. The committee thought that they had provided for as much reduction as the revenues would stand at that time, and opposed all amendments for other changes, asking that the members of the House be patient and wait until the next year before demanding the repeal of other taxes.[6]

One thing on which the committee failed to secure the support of the House was the taxation of certain agricultural implements. The bill, as originally reported, exempted plows, cultivators, harrows, drills, etc., but levied a tax on mowers, reapers, and threshing-machines. The argument was put forth that this was a tax on farming which was justifiable only in times of the greatest necessity. To this Mr. Morrill answered that this tax did not affect

[1] *Cong. Globe*, 1st Sess., 39th Cong., 1865–66, p. 2436, col. 1.
[2] *Ibid.*, pp. 2731–32.
[3] *Ibid.*, p. 2436, col. 2.
[4] *Ibid.*, p. 2684, col. 1.
[5] *Ibid.*, pp. 2813–17 and 2827–30.
[6] *Ibid.*, p. 2436, col. 3.

the farmer, because these machines, being made under patents, were monopolies, and the price was already as high as the market would bear.[1] This argument was used in the Senate also, to which another was added. The new argument was that the tax should be removed for the benefit of the manufacturers. Mr. Lyman Trumbull, of Illinois, said the manufacturers were making little or no profit on their products and so should be exempt. He read a letter from one producer at Rockford, Illinois, who said that during the previous year he had paid $28,000 in tax on his business and that his losses had exceeded that sum.[2] The Finance Committee opposed the exemption, but it was carried over their opposition.

The House Ways and Means Committee's proposal for the tax on raw cotton met with a change before the bill was passed. They had followed the suggestion of the commission, in putting the tax at five cents per pound, but did not adopt the change suggested in the method of collection.[3] This rate of tax was opposed, because it was said that it was the only agricultural product which was taxed and that the South was not able to bear the tax. Mr. Lynch, of Maine, proposed to relieve the poorer classes in the South by exempting for each producer six hundred pounds of the amount owned by him from the planting to the baling. To this Mr. Morrill replied, "If this amendment should be adopted, every piccaninny in the South would have six hundred pounds of cotton to be exempted. All the land would be leased or so managed that every workman, whether employed for wages or otherwise, would come forward with what would appear to be a valid claim for an exemption."[4] This amendment was lost, and another, which proposed to reduce the tax to two cents per pound, was also defeated,[5] for it was thought that the tax would

[1] *Cong. Globe*, 1st Sess., 39th Cong., 1865–66, p. 2686, col. 1.
[2] *Ibid.*, pp. 3312–13.
[3] *Supra*, p. 237.
[4] *Ibid.*, p. 2473, col. 2.
[5] *Ibid.*, p. 2474, col. 2.

not affect the producer at all. On this point the London "Economist," in commenting on the report of the Revenue Commission's proposal to put the tax at five cents a pound, said: "They consider that this tax would not at all diminish the consumption of American cotton abroad; the grower will, they think (and probably rightly), be well able to pay this tax and make a good profit besides. The world will be glad enough to get American cotton at a rate which will pay the tax to the Government and a fair profit to the grower."[1] In the Senate, however, the Finance Committee proposed a tax of two cents per pound, to be paid when the cotton was consumed, and this was passed by the Senate.[2] In conference a compromise was reached, by which the rate was made three cents and the tax was payable by the producer.[3]

The act as approved July 13, 1866, as has been said, repealed many taxes and reduced others. The rates on tobacco were left unchanged, but the uniform tax on cigars was dropped and three classes of cigars, cigarettes, and cheroots made according to their value.[4] In general the administration of the tax was not changed, the special provisions being retained for the collection of the tax on cigars and tobacco. The amount of exemption was increased to $1000, and where the annual product exceeded $1000 but did not exceed $3000, the tax was only on the excess over $3000; but when the value of the annual production exceeded $3000, the tax was levied on the whole amount.[5]

Commissioner Wells in his first annual report in December, 1866, recommended further reductions of taxes on manufactured products. He suggested a reduction of forty per cent of all specific and *ad valorem* taxes; the exemption of bar, plate, and sheet iron, and materials used for manufacturing steel; exemption of sulphuric acid,

[1] Vol. 24, p. 407 (April 7, 1866).
[2] *Cong. Globe*, 1st Sess., 39th Cong., 1865–66, p. 3280, col. 3.
[3] *Ibid.*, p. 3607, col. 2.
[4] Cf. Table XXIII (Appendix).
[5] 14 *U.S. Stat. at Large*, p. 127.

emery, and salt; and the reduction of the two and one half per cent tax on gross receipts of sugar refiners to one and one half or one per cent.[1] The Commissioner of Internal Revenues also suggested that the number of articles subject to taxation should be reduced so far as possible, and the necessary revenues be raised on a few things.[2]

The problem which confronted the House Committee on Ways and Means in preparing a bill was whether to retain the taxes on all the articles then taxed, but at a reduced rate, or to exempt those which had the strongest claims to exemption and to leave the rate on most of the others unchanged. The committee decided to adopt the second plan, for the first would not afford much relief and at the same time would require the same number of officers to collect it. Mr. Morrill said that they also thought that, perhaps, the indirect aid to all branches of industry would be as great as if a general reduction were made.[3]

During the discussion of this bill, the Senate seemed to be more favorable to reductions than the House. The House, following the recommendation of Commissioner Wells,[4] had left the tax on cotton at three cents, but the Senate voted to reduce it to two cents, and by a compromise it was placed at two and one half cents.[5] The classification of cigars and cigarettes was again dropped and a uniform tax of five dollars per thousand was levied. A few of the other taxes on manufactured articles were put at lower rates[6] and the list of exemptions was greatly increased.[7]

There was, after 1866, a growing feeling that the tax on cotton should be repealed. Mr. Wells in his second report

[1] *Senate Ex. Doc. No. 2*, 2d Sess., 39th Cong., 1866–67, p. 33.
[2] *Finance Report* (1866), p. 61.
[3] *Cong. Globe*, 2d Sess., 39th Cong., 1866–67, p. 1216, col. 2.
[4] *Senate Ex. Doc. No. 2*, 2d Sess., 39th Cong., 1866–67, p. 5.
[5] *Cong. Globe*, 2d Sess., 39th Cong., 1866–67, p. 1744, col. 1.
[6] Act of March 2, 1867, 14 *U.S. Stat. at Large*, pp. 474–75.
[7] 14 *U.S. Stat. at Large*, p. 476.

said that, while he had favored it in previous years, now the price of cotton had fallen until the tax fell upon capital and therefore he favored its repeal.[1] The State Legislature of Tennessee and the Cincinnati Chamber of Commerce both presented resolutions to Congress asking for the repeal of this tax.[2] A special bill was accordingly presented and passed exempting all cotton produced after 1867.[3]

At the time this bill was passed it was understood that another bill would soon be reported for the reduction and repeal of the taxes on other manufactured products.[4] The expenses of the Government had decreased and the revenues had increased until it was thought that most of the articles could be exempted, and sufficient revenue raised by retaining the existing rates on only a few. A bill for this purpose was prepared and passed both branches of Congress,[5] with little debate on these repeals, but other sections of the bill were amended by the Senate which delayed the final passage for three months.

The taxes which had been levied on manufactured products were all repealed except those on gas, illuminating and lubricating oil, wines, and all kinds of manufactures of tobacco. The tax on oils was reduced fifty per cent.[6] The tax on gas was repealed by the Act of June 6, 1872,[7] and that on oils was repealed by the Act of July 20, 1868.[8]

Manufactured tobacco, like liquors, was selected as one of the luxuries upon which a permanent tax was retained. When Congress, on June 15, 1868, instructed the Ways and Means Committee to report a separate bill on internal revenues, the tax on tobacco was one of the things which

[1] *Report of Special Revenue Commissioner* (1867), p. 41.
[2] *Cong. Globe*, 2d Sess., 40th Cong., 1867–68, p. 13, col. 2.
[3] Act of February 3, 1868, 15 *U.S. Stat. at Large*, p. 34.
[4] *Cong. Globe*, 2d Sess., 40th Cong., 1867–68, p. 13, col. 3.
[5] *Ibid.*, pp. 1796, col. 3, and 1992, col. 3.
[6] Act of March 31, 1868, 15 *U.S. Stat. at Large*, p. 59.
[7] 17 *U.S. Stat. at Large*, p. 256.
[8] 15 *U.S. Stat. at Large*, p. 167.

was to be included.[1] The bill as reported by the committee made some reductions in rates of the taxes,[2] and imposed some new special taxes,[3] but dealt mainly with elaborate provisions for the prevention of fraud. There was much debate in Congress on this bill, but the discussion was directed mainly to the taxation of spirits, and the provisions with regard to tobacco were passed with little discussion and few changes.

The provisions for preventing frauds, which had been very great,[4] were very similar to those provided for the collection of the liquor taxes,[5] such as the requiring of the manufacturer to give bond, to keep books and make certain daily entries, and to render statements to the assessors, showing place of business, articles produced, machinery employed, and proposed market. The most important change made was in the method of collecting the taxes. Detailed instructions were given with regard to the kind and size of packages in which the products were to be packed, and a stamp was required on each package showing that the tax had been paid.[6] The absence of the proper stamps on a package of tobacco or cigars was considered as *prima facie* evidence of the nonpayment of the tax.[7] Numerous penalties were provided for the violation of the law and for the officers knowingly permitting or assisting in its violation.

(2) *Effect of the Taxes on Industry*

Industrial conditions following the close of the Civil War were very abnormal and Mr. Wells assigned three causes for this abnormality: (1) A scarcity of labor, and especially of skilled labor, in the country; (2) the influence of the

[1] *Supra*, p. 203.
[2] Cf. Table XXIII (Appendix).
[3] Cf. Table XVI (Appendix).
[4] *Finance Report* (1863), p. 67; *ibid* (1867), p. 261.
[5] *Supra*, pp. 204–05.
[6] Act of July 20, 1868, 15 *U.S. Stat. at Large*, pp. 155, 162.
[7] 15 *U.S. Stat. at Large*, pp. 156, 163.

greenbacks; (3) the burden of national taxation.[1] As the first two are outside of the field of this study, they will not be considered here. We are concerned, however, with the third. How did taxation cause abnormal industrial conditions? It is practically impossible to answer this question with absolute certainty, because there were so many other disturbing elements, such as speculation and the purchase of large quantities of supplies by the Federal Government for the armies. Certain changes, however, are noticeable which it is possible to show were, very probably, due in part to the effect of the tax on manufactured articles.

First, when the tax was first imposed, many lines of industry suffered, because it was not always possible to add the tax at once to the price of the article when sold. Many standard articles had been selling at a certain price for so long that any attempt to increase the price met with more or less resistance. Therefore, until the market became readjusted, the producer had to bear the tax and his profits were reduced.

Second, during the time the laws were in force, the taxes worked a hardship on some of the smaller producers. Large manufacturers, as a rule, can produce more cheaply than can small ones. When the tax was light, as, for example, five mills on a bar of soap valued at over three cents per pound, a large producer would often find it to his advantage to assume the tax instead of trying to shift it to the consumer; and at the same time a small producer, who was just on the margin, if he met the prices of his larger competitor, would have to assume the tax, which would consume practically all his profits. The Revenue Commission reported that, while there were many instances of persons making very large profits in the manufacturing business, there were an equal or greater number where no profits had been realized.[2]

[1] *Senate Ex. Doc. No. 2*, 2d Sess., 39th Cong., 1866–67, pp. 21–26.
[2] *Report of Revenue Commission* (1865–66), p. 36.

Third, many manufacturers suffered because no account was taken in the excise laws of the losing business. If a man manufactured and sold an article, he was required to pay the tax on it whether he sold it at a loss or not. The report of the Special Revenue Commission stated that large profits were not yielded in most industries in more than three years out of ten, and that they scarcely ever escaped two years of heavy losses in ten. The tax, coming conjointly with losses in some instances, compelled a discontinuance of the business. The commission reported two establishments which they had investigated that had paid heavy taxes in years when they suffered heavy losses. One of these factories lost $96,000 in six months and had paid $12,000 in excise taxes, and the other one had lost $120,000, paying $18,000 in taxes.[1]

Fourth, the tax served often as a stimulant to greater production of other articles, as it did in the case of spirits already mentioned. The supply of an article, already produced when a law was passed, was not made subject to the tax, and whenever there were prospects that the rates would be increased, producers were encouraged to extend their operations as much as possible so as to take advantage of the advance in price.[2] In many instances the producer, counting the tax as an element of cost, raised the price of his products. But he often found it possible, as adding just the tax would make an inconvenient price for use in business dealings, to add a little more than the tax and thus secure greater profits than if there had been no tax. This also stimulated him to increase his output. In

[1] *Report of Revenue Commission* (1865–66), pp. 36, 37, and note. Cf. *supra*, p. 339.

[2] Commissioner Rollins said that more than 10,000,000 pounds of tobacco were reported in June, 1864, to avoid the additional tax to be levied July 1. (*Finance Report* [1866], p. 48.) The tax collected on petroleum in 1864 was nearly four times as much as it was in 1863, and the Commissioner said it was due largely to the attempt to escape the increased duty after July 1, 1864. (*Ibid.* [1865], pp. 78–79.)

fact, it was not infrequently the case that manufacturers themselves were the most strenuous advocates for the continued and rapid increase of taxation.[1]

Fifth, it is probable, also, that the taxes had some influence in promoting inventions. Other factors, perhaps, had more influence, as the removal from productive labor of the men that entered the army. When the number of laborers was reduced both on the farm and in the factory, the producer was desirous not to decrease his output, and so he worked more and secured better machinery. The same thing resulted, but not to so great an extent, from the excise taxes. Ingenious devices were created to help compensate for the money paid to the Government as taxes.

Sixth, Mr. Wells, in 1867, said: "It is not believed that any great amount of Northern capital accumulated prior to the war was used or destroyed during the war, but that the service and commodities used were mainly the product of the time."[2] In other words, it is doubtful if the Northern States were much poorer at the close of the war than they were at the beginning. The average annual amount consumed each year from 1861 to 1866 in prosecuting the war was about $712,000,000, and if the capital sum was not diminished this must have come from the annual production. Taxation, in so far as it acted as a stimulus to such great production as to enable such large sums to be diverted from the regular channels of business, served to preserve the productive capital of the Northern States intact.

(3) *Shifting of the Taxes*

The same question in regard to who bore the tax, arises in connection with the tax on manufactured articles that we found in connection with the tax on spirits. As the taxes on other articles were not so heavy as the tax on spirits, the shifting of the burden is not so readily detected, but

[1] D. A. Wells, in *Cobden Club Essays* (1871–72), p. 479.

[2] *Report of Special Commissioner of Revenues* (1867), p. 19, note

nevertheless the tendency was the same in many lines of industry. The same qualifications with regard to the influence of the paper money apply here as applied in the previous chapter, and must not be lost sight of, or a much greater influence may be attributed to the taxes than they deserve. Even when prices are reduced to the gold standard, the influence of the greenbacks is not entirely eliminated, because of the uncertainty with regard to the extent of the fluctuations in the prices of gold as quoted in terms of paper.

There were other influences than the greenbacks which affected the prices of commodities, such as the war, improvements in the methods of production, and international trade. Also because of the lack of accurate detailed information with regard to prices while the tax laws were in force, it is practically impossible to point out definite illustrations showing how and to what extent these taxes were shifted. However, as is the case with practically all taxes on production, these taxes were shifted very largely from the producers to the consumers.

(4) *Effect of the Taxes on the Laborer*

The taxes on manufactured articles being shifted were felt by the laborer in the increase in prices of the goods he consumed. Prices advanced very rapidly from 1862 to 1866, and if wages in general did not show the same general advance, the laborer was affected adversely. Commissioner Wells, in 1866, made some investigations on this subject which led him to conclude "that, as a general thing, the price of labor has not advanced in an equal ratio with the price of commodities."[1] In making the comparison Mr. Wells compared the published currency wholesale prices of 1866 with the average gold wholesale prices for the four years from 1859 to 1862; and he compared the wages paid

[1] *Senate Ex. Doc. No. 2*, 2d Sess., 39th Cong., 1866–67, p. 12.

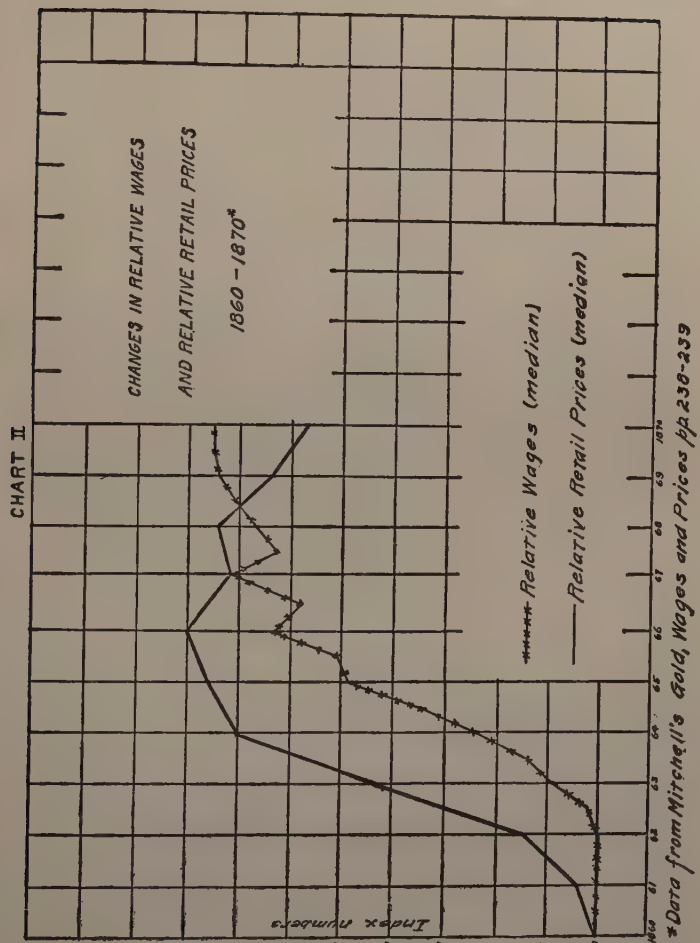
in currency in 1866 with the wages paid in gold in 1860. He selected about fifty of the leading articles of consumption for investigation and came to the conclusion that the average advance in price was about 85 per cent currency. The advances on some of the articles were as follows: Breadstuffs, 70 per cent; coal, from 60 to 70; salt fish, from 70 to 75; provisions — beef and pork — from 110 to 120; butter, over 100; rice, 100; salt, from 110 to 120; soap, from 80 to 90; brown sugar, from 70 to 80; coffee, from 30 to 40; and tea, from 140 to 150 per cent.[1]

Mr. Wells said that no very exact and comprehensive statement could be made with regard to the advance in the prices of labor. However, he investigated the prices paid in about thirty different branches of manufacture at some of the principal seats of industry and arrived at the conclusion that the general advance was about 60 per cent. The advances in some of the industries examined were: Agricultural laborers, 50 per cent; car-building, 60; copper mining, 100; clothing, 50; machinery, 60; umbrellas and parasols, from 47½ to 50; printing, from 45 to 50; iron foundry, from 50 to 60; cotton manufactures, from 66⅔ to 90 per cent.[2] There were some exceptional cases in which wages advanced much higher, as one rolling-mill in Pittsburg showed an advance of over 200 per cent, but on the average the conclusion seems to be warranted that the wage-earners were not in as good a position, economically, in 1866 as they were in 1860, and that this change was due in part to the taxes imposed on the necessities of life.

Dr. W. C. Mitchell has compiled tables showing the relative rates of wages in manufacturing industries and the relative retail prices. He uses figures for the Eastern States, only, as he considers them more reliable than the available ones for all parts of the United States. In Chart II, the medians of wages and prices, as calculated by Dr. Mitchell,

[1] *Senate Ex. Doc. No. 2*, 2d Sess., 39th Cong., 1866–67, p. 12 and pp. 189–190.

[2] *Ibid.*, p. 13.



have been used.[1] This chart shows that from 1860 to 1866, while both wages and prices were advancing, wages lagged far behind prices. After 1866, the general tendency of prices was downward, and again wages lagged behind prices. It is plain, therefore, that from 1861 to 1866, the wage-earner

[1] *Gold, Wages, and Prices*, pp. 238–39.

was not in as good a position economically as he had been in 1860, but it is impossible to tell just the extent to which this was due to taxation and to what extent it was due to the depreciated currency.

(5) *Criticism of the Taxes*

The taxes on manufactured articles, when considered from the standpoint of the amount of revenue they produced, were a decided success. During the six years that the laws levying them were in force, $488,588,136 were paid into the Federal Treasury from this source. The year 1866 was the one when the largest collections were made, the amount being $145,036,201.[1] Not only was the absolute amount of taxes from this source large, but it was also large as compared with the collections made under other parts of the internal revenue laws. In 1863 the taxes from manufactures were over forty-eight per cent of the total internal revenues. The next year they fell to thirty-eight per cent, and during the next four years varied from thirty-nine to forty-five per cent.

There were, however, notwithstanding the fiscal success of these measures, certain faults which should be mentioned. First, the system was very widely diffused. An Austrian writer, Carl von Hock, says of this period: "The citizen of the Union pays a tax . . . at every hour of the day, directly or indirectly, for all acts of his life, for his movable and his immovable property, for his income and for his expenditures, for his business and for his pleasures."[2] Such a system was not compatible with great fiscal results and with large freedom to industry. Under a concentrated system, collection would have been easier, cheaper, and more certain. The diffused system required many more officers and much more inquisitorial methods to guarantee that the tax was collected only fairly well.

[1] Table XXIV (Appendix).

[2] *Finanzen und die Finanz-Geschichte der Vereinigten Staaten von Amerika*, p. 191.

Second, there was a lack of proper adjustment between the internal taxes and the tariff, which not only discouraged certain lines of American industry, but also curtailed the revenues. From time to time, as the laws were revised, attempts were made to arrange such tariff schedules so as not to put the American products at a disadvantage, but for want of proper care and attention they were not always successful.[1] This fault is best shown by some examples given by the Revenue Commission: "In the case of the umbrella and parasol manufacture, the cover, as a constituent element of construction, represents from *one half* to *two thirds* the entire cost of the finished article. The silk, the alpaca, and the Scotch gingham, of which the covers are made, are all imported; the former *paying a duty of sixty per cent*, and the latter two *about fifty per cent ad valorem;* the variation being slight on the quality of texture. The manufactured umbrella, covered with the same material, whose constituent parts are not taxed, either on the material used in their fabrication or on their sale, is, however, admitted under the present tariff at *a duty of thirty-five per cent ad valorem, or at a discriminating duty against the American and in favor of the foreign producer of from fifteen to twenty-five per cent.*"[2] The commission reported further that two instances came to their attention of umbrella manufacturers who had transferred their capital and skill to Europe, with a view of exporting to the United States.

Another illustration of the same thing was seen in the manufacture of manila rope. Hemp, when imported direct from Manila, was charged a duty of $25 a ton, and when imported from Europe an additional *ad valorem* duty of ten per cent. This made the whole duty from $40 to $50 per ton. The internal tax on manufacture of cordage was six per cent *ad valorem*, which in 1865 made the tax about

[1] *Infra*, pp. 264–70.
[2] *Report of Revenue Commission* (1865–66), p. 15.

$33 per ton. Thus the manufacturer of rope paid $58 tax per ton if the hemp was imported directly or $73 if imported indirectly, and at the same time the tariff duty on Manila rope was only $56.[1]

Third, an article was often not the product of a single process, but of several processes, on each of which a tax had been collected, so that the entire tax paid on a finished article was often very high. The taxation of books and pamphlets illustrated this, for every single item used in making books — paper, cloth, board, glue, thread, gold-leaf, leather, and type material — paid from three to six per cent in the first instance, and then five per cent on the whole combined; and this not upon the cost of the manufactured article, but upon the price at which it was sold. It was claimed that including license and income tax, twelve to fifteen distinct taxes were paid on a book before it reached the reader. The taxes on cotton fabric at the end of the war amounted to from nine to fourteen cents per pound.

The manufacture of umbrellas also illustrated this same fault. The supporting rod if made of wood or steel, the handle of carved wood, bone, or ivory, the brass runners, the tips, the elastic band, the rubber of which the band was composed, the button, and the cover, were each distinct articles of manufacture, and when sold paid a tax equivalent to six per cent *ad valorem*. The umbrella manufacturer then assembled all these parts and paid six per cent on the whole. Thus all the parts of an umbrella paid a six per cent tax twice and, in some instances, three times.[2]

Fourth, a final objection was that these taxes interfered with industry by being levied on nearly every stage of the manufacture. Business men like to know what their tax is to be and then pay it once for all, but this was impossible when a tax was levied on so many separate parts of a finished product.

[1] *Report of Revenue Commission* (1865–66), p. 16. [2] *Ibid.*, p. 14.

CHAPTER X

OTHER INTERNAL TAXES

(1) *Assessed Taxes under Schedule A*

THE term "Schedule A"[1] was used to designate the assessed tax on certain articles of luxury, such as carriages, yachts, billiard-tables, watches, and gold and silver plate. In 1862, when the first Civil War internal tax bill was under discussion, the House Ways and Means Committee reported a substitute for the bill which was being debated. In the substitute, the amount of the proposed direct tax was cut down from $30,000,000 to $20,000,000, and among other new taxes suggested was a tax on carriages and watches;[2] but this substitute was defeated in the House. The following December, Secretary Chase suggested that a duty be levied on carriages.[3]

The revenue bill reported in the early part of 1862 provided for a tax on carriages, watches, pianos, billiard-tables, and plated wares. During the debate in the House, yachts and organs were added to this list.[4] The objection was raised in the House that such taxes were direct and for that reason unconstitutional. To this objection it was answered that, in 1796, the Supreme Court had held that the term "direct tax" meant a poll tax or a tax on land.[5] While this bill was under discussion in Congress, a special committee of the Philadelphia Board of Trade made a report on the tax bill to that organization, in which they

[1] The term "Schedule A" was used in Act of July 1, 1862, and Act of June 30, 1864.

[2] *Cong. Globe*, 1st Sess., 37th Cong., 1861, p. 323, col. 2.

[3] *Finance Report* (1861), p. 15.

[4] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, pp. 1462–63.

[5] *Ibid.*, p. 1462, col. 2.

condemned the taxes in Schedule A, because they were too inconsiderable and too annoying to be worth attention and sufficient revenue could be secured without them.[1] This time these taxes were passed by the House, but were stricken out of the bill by the Senate because of the espionage necessary for their collection.[2] In the conference committee it was decided to retain this class of taxes, but they were applied only to carriages, yachts, billiard-tables, and gold and silver plate.[3] An exemption of forty ounces of silver plate was allowed for a family,[4] and the next year an amendment to this act provided for the exemption of silver plate owned by religious societies.[5]

Under the Act of July 1, 1862, billiard-tables and silver plate were subject to tax when "kept for use." Commissioner Boutwell decided that this meant to exempt billiard-tables kept for hire on which a license tax had been paid, and silver plate "kept for sale," and also that which was held as souvenirs or keepsakes.[6] By the Act of June 30, 1864, Congress confirmed these decisions of the Commissioner.[7]

Commissioner Lewis, in 1863, reported that returns of the assessors showed that these taxes were in a very great many cases not paid, and that the amounts collected had paid "but indifferently for the expense of collection." He recommended that this class of taxes either be repealed or that the list be extended to include watches, pianos, guitars, dogs, looking-glasses beyond a certain size, diamonds, emeralds, and other precious stones kept for ornament or use.[8] These recommendations were followed only in regard to pianos, organs, and other musical instruments, and

[1] *Report of Special Committee of Philadelphia Board of Trade*, p. 11.
[2] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 2330, col. 1.
[3] For rate of taxes, see Table XXV (Appendix).
[4] Act of July 1, 1862, 12 *U.S. Stat. at Large*, p. 467.
[5] Act of March 3, 1863, 12 *U.S. Stat. at Large*, p. 717.
[6] Boutwell (1863), p. 229.
[7] 13 *U.S. Stat. at Large*, p. 274.
[8] *Finance Report* (1863), p. 68.

watches. The classification of, and the rates on, carriages and watches were also changed.[1]

The Revenue Commission proposed, as their first recommendation, the repeal of all the taxes in Schedule A except the tax on billiard-tables. Although laid on articles of luxury, these taxes were inquisitorial in character, and were productive of more annoyance to the people and of more trouble and expense to the Government than was commensurate with any revenue derivable from them.[2] The House Ways and Means Committee, however, did not agree entirely with the commission, for they recommended that only the taxes on yachts, carriages valued at less than $300, pianos, and watches be repealed, "on the ground that the owners of carriages valued at over $300, and gold watches and silver plate, were among those persons best able to contribute something to the support of that Government under whose protection they have been able to acquire articles indicative of wealth and assured means of support."[3] In neither chamber was there practically any discussion on this part of the bill, and it was passed as presented by the Committee on Ways and Means in the House.

The next year Special Commissioner Wells repeated the recommendation that these taxes should be repealed,[4] but no change was made. For four more years these taxes were continued with no change in rates. The House in 1870 passed a bill for reducing internal taxes, but no mention was made in it of the articles taxed in Schedule A. The Senate amended the bill by providing for the repeal of several taxes, one class being those in Schedule A,[5] and the House concurred in the amendment, so that no taxes were collected on these articles after October 1, 1870.[6]

[1] 13 *U.S. Stat. at Large*, p. 274. Cf. Table XXV (Appendix).
[2] *Report of Revenue Commission* (1865–66), p. 37.
[3] *Cong. Globe*, 1st Sess., 39th Cong., 1865–66, p. 2436, col. 3.
[4] *Senate Ex. Doc., No. 2*, 2d Sess., 39th Cong., 1866–67, p. 6.
[5] *Cong. Globe*, 2d Sess., 41st Cong., 1869–70, p. 4708, col. 2.
[6] Act of July 14, 1870, 16 *U.S. Stat. at Large*, p. 256.

The revenues secured from this source were very inconsiderable when compared to the entire receipts from internal taxes. In 1863, they were only eighty-nine hundredths of one per cent, and in no year did they rise above this proportion, while in 1865 they fell to thirty-six hundredths of one per cent. The only year in which the collections exceeded two million dollars was 1867,[1] and this was due to the fact that the law of July 13, 1866, changed the time of collection from May 1 to March 1, so that the receipts for that year embraced the taxes for two annual assessments.[2]

Such taxes as these seemed to be rather popular because they were levied on luxuries and did not fall upon the poorer class of people. However, inquisitorial methods of assessment were necessary. This is expected to a certain extent in the collection of local taxes, but it is very objectionable when adopted by the Federal Government. Another objection to these taxes was that the ease with which they could be evaded made them very unequal and offered incentives to dishonesty and perjury. The probable reason why these taxes were retained, when they did not greatly exceed in revenue return the cost of collection, was because they attracted so little attention that practically no one took the trouble to oppose them.

(2) *Passports*

One of the great objects before the Government in 1862 being to raise funds for prosecuting the war, Congressmen busied themselves to find sources of revenue, and the Finance Committee of the Senate hit upon the idea of taxing passports.[3] A section for this purpose was incorporated in the law of July 1, 1862, making the tax three dollars for each passport. A man desiring to secure a passport was required to pay the tax to the collector. It was necessary then to send the tax receipt to the Secretary of

[1] Cf. Table XXVI (Appendix). [2] *Finance Report* (1868), p. 470.
[3] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 2338, col. 3.

State before the passport would be issued. Ministers and consuls issuing passports were required to collect the tax and make returns through the Internal Revenue Office.[1] In 1864 the tax was increased to five dollars.[2] No further changes were made until 1870, when the House proposed to retain the tax at five dollars,[3] but the Senate voted to repeal it,[4] and the House concurred. The repeal went into effect October 1, 1870.[5] This tax caused very little discussion and was not productive of much revenue.[6]

(3) *Taxes on Sales*

The proposition in 1862 to tax sales met with strong support outside of Congress. The New York "Tribune" suggested a tax on dealers and merchants of one per cent on the price of each article sold by them.[7] The Board of Trade of Philadelphia memorialized Congress to levy such a tax.[8] The New York "Times" said: "Among the numerous propositions for a scheme of finance or taxation which shall produce a revenue equal to the greatly increased expenditures of Government, we have seen none that appears to accomplish this end so fully, and to which so few objections can be urged, as an uniform tax upon transfers, or sales of merchandise."[9] The Boston Board of Trade [10]

[1] 12 *U.S. Stat. at Large*, p. 472.

[2] Act of June 30, 1864, 13 *U.S. Stat. at Large*, p. 276.

[3] *Cong. Globe*, 2d Sess., 41st Cong., 1869–70, p. 3968, col. 2.

[4] *Ibid.*, p. 4708, cols. 2–3.

[5] Act of July 13, 1870, 16 *U.S. Stat. at Large*, p. 257.

[6] Revenue from the tax on passports from 1863 to 1871: —

1863	$ 8,406.00	1868	$28,280.00
1864	11,001.00	1869	29,453.00
1865	27,408.29	1870	22,756.00
1866	31,149.00	1871	8,205.00
1867	28,217.00	Total	194,875.29

Ex. Doc. No. 4, 2d Sess., 46th Cong., 1879–80, pp. 171–73.

[7] January 23, 1862, p. 4, col. 5.

[8] In *Miscellaneous Papers of Ways and Means Committee*, 37th Cong., in File Clerk's Office at Washington.

[9] April 30, 1862, p. 4, col. 2. [10] *Ibid.*, May 3, 1862, p. 4, col. 5.

and the New York Chamber of Commerce [1] both sent memorials to Congress, asking for such a tax.

The House Ways and Means Committee did not seem to share the popular feeling in favor of taxing sales, for the bill which they reported provided for such a tax only in the case of auctions. There were some members of both branches of Congress who favored a tax on sales. Mr. Sheffield, of Rhode Island, offered an amendment for levying a tax of one per cent "upon sales of goods, wares, merchandise, and other property and estate," with the view of modifying other parts of the bill, so that the burden of the tax would be distributed more equally.[2] Mr. Morrill opposed such a tax and stated some of the objections to it. He said that all the merit of the plan lay in the simplicity with which it could be stated. He said, further, that it would annihilate jobbers and retailers, because the manufacturers and importers would become their own distributors, adding only one tax to the price of the article, while the jobber or retailer would have to add two or three. It would be practically impossible to levy such a tax because many merchants did not keep books, and many more might not if it would save paying taxes. There would be trouble, also, in telling just what was a sale and liable to the tax, for many transactions were carried on by barter, where money was used neither as a medium of exchange nor as a measure of value.[3] Mr. Sheffield's amendment was not adopted by the House.

In the Senate an amendment, drawn up in all its general features by the Board of Trade of Boston, was offered as a substitute for the House bill, but it was lost by a vote of 33 to 3.[4] In the bill as finally passed, the only tax on sales was the one reported by the Ways and Means Committee taxing the gross amount of all sales by auction of real estate,

[1] *Bankers' Magazine* (New York), vol. 16, pp. 913–20 (June, 1862).
[2] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 1403, cols. 2–3.
[3] *Ibid.*, p. 1457.
[4] *Ibid.*, p. 2581–87.

goods, wares, merchandise, stocks, bonds and other securities one tenth of one per cent.[1]

Commissioner Lewis, in 1863, said he considered the tax on auction sales very low, and that he thought it might be increased to one fourth of one per cent.[2] He also suggested a tax of one twentieth of one per cent on the sales of brokers.[3] The Ways and Means Committee incorporated these suggestions in a bill, to which several amendments were offered, proposing a higher tax than that suggested by the Commissioner. Two objections were offered to any increase: first, that it would destroy the business of many small brokers; and second, that if the tax was too high it would be evaded.[4] There was no change made before this bill was passed, except that sales of commercial brokers were included at a rate of one eighth of one per cent.[5]

In 1864, the estimated expenditures for the following year exceeded the estimated income by $35,000,000, and the Commissioner of Internal Revenues suggested that a temporary tax be levied on sales to provide for this deficit.[6] The House Ways and Means Committee, after considering this suggestion, did not favor it, and proposed other methods for increasing the revenues. One of their proposals was to increase the tax on manufactured articles twenty per cent. When the bill was being debated in the House, Mr. Boutwell offered as an amendment to strike out this increase in tax on manufactured articles and insert in lieu thereof a tax of one half of one per cent on the sales of all goods, wares, and merchandise.[7] This led to a lengthy debate on the subject. The principal arguments in favor of the tax were that it would be found to be the most easy to assess and to collect of all the various taxes; that it would

[1] Act of July 1, 1862, 12 *U.S. Stat. at Large*, p. 466.
[2] *Finance Report* (1863), p. 69. [3] *Ibid.*, p. 73.
[4] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, pp. 1849–50.
[5] Act of June 30, 1864, 13 *U.S. Stat. at Large*, p. 273.
[6] *Finance Report* (1864), p. 60.
[7] *Cong. Globe*, 2d Sess., 38th Cong., 1864–65, p. 843, col. 3.

yield large revenue; and that it would fall upon the sale of foreign as well as domestic products.[1] Vigorous objections were made to such a tax, and Adam Smith and other writers on political economy were quoted as opposing such a system. Much use was made of the argument that a tax on sales had been detrimental to the manufacturing interests of Spain.[2] Mr. James A. Garfield opposed it in the following words: "The first great objection to it is that it clogs that free movement of trade which is so essential to national prosperity. It ties a fetter upon every article that should have full freedom of exchange in every place. Articles are exchanged only because by such exchange they can be made more valuable; that is, they will be put into hands that will increase the wealth of the nation. And now it is proposed that at the very point where the mobility of trade is most necessary a fetter shall be fastened to it to clog and impede its normal activity. Again, this measure will tend to break down all the middle-men between the wholesale and the retail dealers. It will be particularly burdensome upon all persons who live away from large cities; particularly ruinous in its effects upon the smaller dealers who are engaged in trade in the West." [3] This amendment was not adopted, and, as has already been said, the twenty per cent increase was levied on manufactured articles.[4]

The Revenue Commission reported that they considered the tax on sales of brokers far too heavy, that the business was not able to pay it, and that no doubt it was largely evaded. They recommended, therefore, that the tax be reduced to one one hundredth of one per cent, and that it be collected by means of stamps, to be attached to the bills of sales.[5] These recommendations were followed by Congress, the tax being put at one cent for every $100 and a bill or memorandum was required with each sale to which

[1] *Cong. Globe*, 2d Sess., 38th Cong., 1864–65, p. 874, col. 2.
[2] *Ibid.*, pp. 873–74. [3] *Ibid.*, p. 844, col. 2. [4] *Supra*, p. 234.
[5] *Report of Revenue Commission* (1865–66), p. 33.

the stamps were affixed.[1] The law was changed further by reducing the tax on auction sales from one fourth of one per cent to one tenth of one per cent.[2] The principle of taxing sales was further expanded by providing for a duty of $1 on each $1000 of sales in excess of $10,000 per annum made by cattle brokers,[3] also wholesale dealers, including wholesale liquor dealers, were taxed $1 on each $1000 of sales in excess of $50,000 per annum.[4] The following year the rate of $1 on each $1000 of sales in excess of $25,000 per annum of apothecaries, butchers, confectioners, and plumbers and gas-fitters was applied.[5]

The House of Representatives, in 1866, passed a bill repealing the tax on most manufactured articles. The Senate amended the bill by providing for a tax on the sales of manufacturers.[6] The House Ways and Means Committee had intended to incorporate such a section in another revenue bill to be reported later, but were willing to include it in this bill. However, they proposed to change the Senate amendment by making the tax apply only to sales of articles exempt from other taxes and to the annual excess over $5000 instead of over $10,000.[7] After the bill had been twice referred to a conference committee, the Senate agreed to these changes. The tax was at the rate of $2 for each $1000 of sales of untaxed articles in excess of $5000.[8]

The Act of July 20, 1868, which revised the laws taxing spirits and tobacco, also levied a tax on the sales of wholesale liquor dealers and dealers in tobacco. The rates on liquor dealers were $10 for each $1000 of sales of spirits and

[1] Act of July 13, 1866, 14 *U.S. Stat. at Large*, p. 134.
[2] 14 *U.S. Stat. at Large*, p. 133. Cf. Table XXVII (Appendix).
[3] *Ibid.*, p. 117.
[4] *Ibid.*, pp. 115–16.
[5] Act of March 2, 1867, 14 *U.S. Stat. at Large*, p. 471. Cf. Table XXVII (Appendix).
[6] *Cong. Globe*, 2d Sess., 40th Cong., 1867–68, p. 1916, col. 3.
[7] *Ibid.*, pp. 2101–02.
[8] Act of March 31, 1868, 15 *U.S. Stat. at Large*, p. 59.

$1 for each $1000 sale of other merchandise in excess of $25,000. Dealers in leaf tobacco were taxed $2 for each $1000 of sales in excess of $10,000; and dealers in manufactured tobacco were taxed $2 for each $1000 of sales in excess of $1000.[1]

These taxes were continued without further change until 1870. In his fourth annual report, Commissioner Wells recommended that the tax on sales be repealed.[2] Congress followed the suggestion by passing an act repealing all the taxes on sales, except those collected by stamps and those on the sale of tobacco and spirits, after October 1, 1870.[3]

There were several decisions rendered by the Commissioners of Internal Revenues and by the courts with regard to these taxes, but only three, with regard to brokers and bankers, will be mentioned here. The question was raised whether a broker should be taxed on the sales which he made for himself. The Commissioner held that a proper interpretation of the law required a tax on such sales. Judge Nelson, in the United States Circuit Court for the Southern District of New York, held that the tax should be levied only when the sales were made for others.[4] On appeal, the Supreme Court said, "It cannot be doubted that the meaning of the act was to subject sales made by a broker for himself to the same tax as those made for others."[5] Another question brought up to the Supreme Court was the interpretation of the phrase, "bankers doing business as brokers." The court held that a banker selling government securities for the Government or for himself should not be treated as a banker doing business as a broker, and consequently was not required to make returns of and pay taxes on such sales.[6] This decision was followed

[1] 15 *U.S. Stat. at Large*, pp. 151–52.

[2] *Report of Special Commissioner of Revenues* (1869), p. 78.

[3] Act of July 14, 1870, 16 *U.S. Stat. at Large*, p. 256.

[4] *Commercial and Financial Chronicle*, vol. 1, p. 354 (September 16, 1865).

[5] U.S. *v.* Cutting, 3 *Wall.*, p. 444. [6] U.S. *v.* Fisk, 3 *Wall.*, pp. 447–48.

in 1869 by one in the Circuit Court of the Southern District of New York to the effect that, parties who purchase "stocks, bonds, etc., for others, but make the purchases in their own name, and advance their own money, and take the transfers in their own name, and hold the stocks as security for the repayment of the money by the persons for whom the stocks are purchased; and, on receiving such repayment, with interest and the customary charges, deliver the stocks, bonds, etc., as per agreement, or, in default of repayment, sell the same to reimburse themselves," are brokers and subject to the tax on sales.[1]

The receipts from these taxes for the nine years during which they were collected were $37,500,000, but less than $5,000,000 of this amount was collected before the close of the war, when revenues were most needed. The most productive taxes were those on dealers and manufacturers, while the collections from confectioners and plumbers and gas-fitters were so small as to be hardly worth the trouble of collecting.[2] Before 1867, the tax on brokers was very productive, but after this year the most of the income from this source was returned as stamp taxes. This method of taxation probably had little effect on industry, but if the suggestion had been adopted to extend it to all kinds of sales, the story would very probably have been different. The rate usually suggested was one per cent, but the purchaser in many instances would have been required to pay several per cent more for the product, because the proposal was not to levy the tax only once, say when the sale was made by the producer, but every time the article was transferred.

[1] Clark *et al. v.* Gilbert & Shook, 5 *Blatch.*, p. 333; same case, 4 *I.R.R.* p. 42.

[2] Table XXVIII (Appendix).

CHAPTER XI

INFLUENCE OF INTERNAL TAXES ON THE IMPORT DUTIES

ALTHOUGH the United States had experienced, for a long period, absolute freedom from internal taxes previous to 1861, at no time had it been without import duties. During part of the time the tariff rates had been very low, while at other times there were determined attempts to make them protective. The Act of 1846,[1] passed by the Democratic party, was avowedly with free-trade intentions, although these principles were not carried out consistently. The maximum rate imposed by this act on leading articles was thirty per cent. When the Tariff Act of 1857[2] was passed, the rates were further reduced so that the maximum was twenty-four per cent.

In 1860 there was a beginning made toward higher duties which would furnish more protection. In that year the Morrill Tariff Act was introduced, debated, and passed in the House, but it was not taken up in the Senate.[3] During the second session of the Thirty-sixth Congress, 1860–61, this bill, which had been passed the year before by the House, was considered by the Senate and passed without material changes.[4] Since this bill was drafted and passed by the House a considerable time before war seemed imminent, it cannot be considered a war measure, and the intention seemed to be simply to restore the duties of the Act of 1846.[5]

This Morrill Act had hardly gone into effect when the

[1] Act of July 30, 1846, 9 *U.S. Stat. at Large*, p. 42.
[2] Act of March 3, 1857, 11 *U.S. Stat. at Large*, p. 192.
[3] *Cong. Globe*, 1st Sess., 36th Cong., 1859–60, p. 2056, col. 1.
[4] *Ibid.*, 2d Sess., 36th Cong., 1860–61, p. 1065, col. 2.
[5] *Ibid.*, 1st Sess., 36th Cong., 1859–60, p. 1832, col. 3.

Civil War began and the necessities of the Treasury caused additional duties to be levied. For the next four years, as with internal taxes so with tariff duties, continual changes were being made.[1] The vast majority of these changes consisted in the imposition of new rates or the increasing of old ones. The question we are interested in here is what effect the internal taxes had on the tariff rates.

In 1862, when the act was passed which established excise taxes on such a comprehensive plan, in order not to put the American producer at an actual disadvantage in competition with the foreigners, it became necessary to increase the import duties. In reporting to the House the internal tax bill for the Ways and Means Committee, Mr. Morrill said: "It will be indispensable for us to revise the tariff on foreign imports, so far as it may be seriously disturbed by any internal duties, and to make proper reparation, otherwise we shall have destroyed the goose that lays the golden eggs. If we bleed manufacturers we must see to it that the proper tonic is administered at the same time." [2] Mr. Stevens, in the debate on the tariff bill in 1862, stated, "We intended to impose an additional duty upon imports equal to the tax which they had put upon the domestic article. It was done by way of compensation to domestic manufactures against foreign importers." [3] Messrs. Morrill and Stevens were both strong protectionists, and being members of the Ways and Means Committee, used their influence to increase duties to such an extent as to offset the internal taxes which had been levied. While this was their primary object, they also did not keep secret the fact that they were willing to help the home producer whenever possible.

[1] The most important acts revising the tariff were the following: Act of August 5, 1861, 12 *U.S. Stat. at Large*, p. 292; Act of July 14, 1862, 12 *U.S. Stat. at Large*, p. 543; and Act of June 30, 1864, 13 *U.S. Stat. at Large*, p. 202.

[2] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 1196, col. 1.

[3] *Ibid.*, p. 3053, col. 3.

This same attitude toward the subject was shown in the tariff revision of 1864, for from the debates on that bill we read, the requiring of large means by the Treasury "has made an increase in internal duties necessary, and that increase to a considerable extent imposes on us the duty as well as affords us the power of obtaining an increased revenue from duties on imports from abroad." [1] Even down to 1870, Mr. Morrill held to this same contention that in some instances as much as fifty per cent had been added to our tariff rates to enable the home trade to bear the new but indispensable burdens of internal taxation.[2]

The intention then seemed to be in all cases to make the import duties sufficiently high to put the home producer at least on an equality in competition with the foreigner. Instances have already been mentioned [3] when this object was not accomplished, because of the lack of proper adjustment between the excises and import duties. There were a number of cases of this kind, but nevertheless they were the exception and not the rule. On the other hand, in a great many cases the rates were more than sufficient to accomplish this purpose and so acted directly as a means of protection.

There had been great reluctance shown in the passage of the Morrill Tariff Act in 1860 and 1861, but in 1862 the tariff bill was passed with decided ease. This change was of course due in great part to the general enthusiasm for large revenues to prosecute the war, but also the internal taxes had no small influence in removing the obstacles in Congress to a tariff measure levying very high duties, as compared to any the country had ever experienced before.

In 1864 the excise and tariff bills were under discussion at the same time and approved by the President on the same day. Mr. Morrill, who had now become Chairman of

[1] *Cong. Globe*, 1st Sess., 38th Cong., 1863–64, p. 2672, col. 1.
[2] *Ibid.*, 2d Sess., 41st Cong., 1869–70, p. 3295, col. 3.
[3] *Supra*, pp. 251–52.

the House Ways and Means Committee, again found excellent opportunity to extend protection. It would doubtless be an injustice to Mr. Morrill to say that he consciously took advantage of the necessities of the Government at this time to put into practice his theories of protection. Believing, however, that protection was a good thing for the country and being anxious to make all taxes as high as possible for the sake of the revenue, it is not surprising that many tariff rates were made higher than was necessary to compensate for excises.

It must also be remembered that because of the great amount of legislation which was necessary during the war, there was neither the time nor the desire to make extensive inquiries and investigations into the probable results of any of the taxes. The domestic producers were supposed to know better than any one else what duties were necessary to keep their businesses from being ruined, so the easiest thing to do was to impose the taxes which they suggested. It must also be recognized that in all too many cases, private interests and the public welfare were not kept separate and distinct in the minds of men in public life, so that when the opportunity was presented for large private gains, as well as for securing large revenues for the Government, advantage was often taken of it.

There is no doubt, then, that the excise taxes were very influential in securing the high protective duties of 1861 to 1865. What effect did the repeal of the former have on the latter? The answer here is very different. As soon as the war was over, there was a call for the repeal of the excise taxes as rapidly as possible. Large revenues were still needed, but the feeling seemed to be that the least burdensome of the taxes were those imposed upon foreign importations. As a natural result, therefore, the tariff duties were retained while the internal taxes were being reduced and repealed.

It seems that Mr. Morrill, in 1870, detected the tendency

to retain unduly high rates for protective purposes. He said, "It is a mistake of the friends of a sound tariff to insist upon the extreme rates imposed during the war, if less will raise the necessary revenue. . . . Whatever percentage of duties were imposed upon foreign goods to cover internal taxes upon home manufactures, should not now be claimed as the lawful prize of protection when such taxes have been repealed." [1]

It was never thought that the war revenue measures as a whole were intended to be permanent, but it is not possible to say what expectations public men had with regard to the permanency of the tariff rates. Doubtless there were some stanch protectionists who from the first were determined to use their influence to make them a permanent part of our financial system. Others probably thought neither one way nor the other about the future, but were only interested in getting laws passed which would put funds into the Treasury when the needs were so pressing.

Immediately after the close of the war there was little done to reduce the tariffs, but in time a feeling began to develop that a reform was desirable. The Special Revenue Commission of 1865–66 studied this subject, as did also Special Commissioner Wells, from 1866 to 1870. Schemes were proposed for reductions, but there were many influences working against any change. Congress was very much occupied with the problems of Reconstruction. Domestic producers very naturally used all their energies to protect their interests, and the influence of the lobby was great. As time passed and the business of the country became more settled after the close of the war, industry became organized more and more on the principles of protection. As the vested interests which would be affected by a change became greater, the sentiment in favor of a reduction began to lessen. After being retained for several

[1] *Cong. Globe*, 2d Sess., 41st Cong., 1869–70, p. 3295, col. 3.

years, the system came to be looked upon by many as permanent.

There was one determined and almost successful effort made to bring about a reform. Mr. Wells, although not a free trader at that time, nevertheless saw the evil of the very high rates of duty and as Special Commissioner of Revenues prepared a bill in 1867 looking to a reform.[1] In 1866, the House of Representatives had passed a bill which increased a number of tariff duties.[2] It was not taken up by the Senate at that session, but in the following session it was passed by the Senate with the bill prepared by Mr. Wells added as an amendment. This amendment, while by no means a free-trade measure, reduced materially many of the duties on raw materials, and lowered some of the rates on manufactured articles. It at least was a beginning along the lines of reform.

The bill when returned to the House met with considerable objection and was taken up for further debate. At last, late in the session, a motion was made to suspend the rules in order that the Committee of the Whole might be discharged from further consideration of the bill, and that the House proceed to vote at once upon concurring in the Senate amendment and with the amendments of the Ways and Means Committee, which had been adopted. In order to suspend the rules a two-thirds vote was needed and the vote on the motion stood 106 to 64.[3] This closed the attempts at tariff legislation at that session.

It is probable, if this bill had gone through, that further changes might have been made later, for it is very evident from the vote that sentiment was not entirely in favor of retaining the high rates. However, this seemed to be the time when lower tariffs had the best chance and the chance was lost. Tariff laws were passed from time to time, but

[1] *Senate Ex. Doc., No. 2*, 2d Sess., 39th Cong., 1866–67, pp. 235–91.
[2] *Cong. Globe*, 1st Sess., 39th Cong., 1865–66, p. 3725, col. 1.
[3] *Ibid.*, 2d Sess., 39th Cong., 1866–67, p. 1658, col. 1.

the high protective principle seemed to be firmly established. So, while many influences have worked together to bring about our high tariff rates, by no means the least important were the internal taxes of the Civil War.[1]

[1] Cf. Taussig, *Tariff History*, chaps. I and II; Howe, *Taxation in the United States*, chap. VII.

CHAPTER XII

ADMINISTRATION

THE scope of the study in this chapter is the examination of the organization of a bureau in the Treasury Department which had charge of the administration of the internal tax laws. This bureau had under its supervision numerous officials scattered throughout the country who did the work of directly assessing and collecting the taxes. The details of administration of the various taxes which called for special discussion have been considered in the chapters dealing with those special taxes.

When the direct and income taxes were levied by the Act of August 5, 1861, there were no officers whose duty it was to collect such taxes. An officer known as the Commissioner of Revenues had been in charge of such duties from 1815 to 1817, but this office was discontinued by the Act of December 23, 1817.[1] Attention has already been called to the fact that the law of 1861 provided for the appointment of a Commissioner of Taxes, but that no appointment was made before Congress passed another tax law in 1862.[2]

The opinion, held by many in 1861, that the war would be of short duration, had pretty largely disappeared by 1862. The House Ways and Means Committee, therefore, in preparing a revenue bill made careful provisions for machinery for administering the law. This portion of the bill was the subject of much debate in Congress, but the discussion was confined almost entirely to details and no changes were made in the general provisions as reported by the committee.

Instead of a Commissioner of Taxes, an office was created

[1] 3 *U.S. Stat. at Large*, p. 402. [2] *Supra*, p. 24.

in the Treasury Department called the office of the Commissioner of Internal Revenues. The President was authorized, with the consent of the Senate, to appoint the Commissioner, who, under the direction of the Secretary of the Treasury, was charged with the preparation of all necessary instructions, regulations, forms, and blanks, and with the general superintendence of the assessment and collection of the internal taxes. The Secretary of the Treasury was authorized to assign such number of clerks to this office as he deemed necessary.[1] The next year by an amendatory act the machinery of the Internal Revenue Bureau was increased. A deputy commissioner was authorized, to be appointed in the same way as the Commissioner, with such duties as the Secretary of the Treasury should prescribe, and who was to act as Commissioner in the absence of that officer. A cashier of internal revenues was authorized to be appointed by the President, with the consent of the Senate, who was to have charge of all money received in the office of the Commissioner. The Secretary of the Treasury was authorized to appoint not more than three revenue agents to aid in the prevention and detection of frauds on the revenues.[2] In the absence of any statutory directions, the Secretary assigned the settlement of the accounts of the bureau to the Fifth Auditor and First Comptroller.[3]

The first Commissioner appointed was George S. Boutwell, of Massachusetts, and to him and to Deputy Commissioner C. F. Estee, of New York, much credit is due for the system of forms and details provided. Mr. Boutwell entered upon the duties of his office July 17, 1862, and by the 1st of January, 1863, the organization of the office was nearly accomplished.[4] He was followed by

[1] Act of July 1, 1862, 12 *U.S. Stat. at Large*, pp. 432–33.
[2] Act of March 3, 1863, 12 *U.S. Stat. at Large*, pp. 725–26.
[3] *Finance Report* (1862), p. 29.
[4] *Senate Ex. Doc. No. 20*, 3d Sess., 37th Cong., 1862–63, p. 1.

Joseph J. Lewis, of Pennsylvania, who brought much experience and legal acumen to the office. The third Commissioner was William Orton, of New York, a man of much business capacity. The fourth was E. A. Rollins, of New Hampshire, who made an efficient and accomplished officer,[1] so that during the time the war lasted, the central administration of the internal taxes was in very capable hands.

The President was authorized to divide the States and Territories into convenient collection districts, and, with the consent of the Senate, to appoint an assessor and a collector for each district. In most cases these collection districts corresponded to the congressional districts.[2] The assessors were authorized to divide their districts into a convenient number of assessment districts and to appoint an assistant assessor for each.[3]

A collector was authorized to appoint as many deputy collectors as he thought proper, and he was responsible for every act or any omission of duty of a deputy. He was required to give a bond that he would faithfully perform the duties of his office according to law and account for and pay over to the United States all public money which came into his hands.[4] The United States District Court for New Jersey in the case of United States *v.* Thorn *et al.*, held that if an attempt was made to forfeit a collector's bond because he had failed to discharge the duties of his office, if he had paid over all money which he had received, it was necessary to state specifically what duties he had failed to perform. A general accusation of failure to discharge duties was not sufficient to secure a conviction.[5]

[1] Emerson, *Internal Revenue Guide*, p. 9, note. [2] Redfield, p. 10.

[3] The Attorney-General expressed the opinion that the law authorizing the assessors to appoint assistant assessors was clearly unconstitutional and that this power resided in the President. (1 *I.R.R.*, p. 162.) However, the same provision was included in later laws and I find no account of a case coming before the courts.

[4] 12 *U.S. Stat. at Large*, pp. 433–34. [5] 9 *I.R.R.*, p. 65.

The salaries of assessors and collectors were dependent upon the amount of business done. Besides a *per diem* salary[1] for each day actually employed in the business of making assessments, an assistant assessor was allowed one dollar for each one hundred names on the tax lists returned by him to the assessor, and the same rate was allowed the assessor for each one hundred names returned by him to the collector.[2] In January, 1863, Commissioner Boutwell made his first report to Congress, in which he said that he considered an increase in the pay of assessors was very important, if not absolutely necessary. The compensation provided by law was not sufficient to secure men of intelligent business capacity and unfaltering integrity. He also suggested that an allowance by the day or year was preferable to compensation by commission.[3] Congress followed the suggestion for increasing the salary, but did not give up the commission plan. The method of determining the commission was changed, however, for instead of being calculated by the number of names on the assessor's list, it was calculated on the amount of taxes collected in the district, and with increase in collections the per cent of commission decreased.[4] The Secretary of the Treasury was authorized to allow additional compensation to assessors and assistant assessors in California, Oregon, and the Territories, in consequence of the greater cost of living and traveling in those localities, and the same allowance was made in case a collection district embraced more than a single congressional district.

The collectors worked entirely upon a commission. Of

[1] The assessors received three dollars per day for time necessarily employed in making arrangements and giving instructions to the assistant assessors and five dollars per day when hearing appeals, revising valuations, and making out lists. Assistant assessors received three dollars per day when employed in collecting lists and making valuations. Act of July 1, 1862, 12 *U.S. Stat. at Large*, p. 438.

[2] 12 *U.S. Stat. at Large*, p. 438.

[3] *Senate Ex. Doc. No. 20*, 3d Sess., 37th Cong., 1862–63, p. 2.

[4] 12 *U.S. Stat. at Large*, p. 726.

the first $100,000 an officer collected, he received four per cent, and of all over $100,000 he received two per cent. The deputy collectors received their compensation from the collectors.[1] The amendatory act of 1863 limited the annual salary of a collector to $5000, exclusive of office expenses, and to $10,000 including office expenses.[2]

Each person liable for internal taxes was required to return an annual list to the assessor or assistant assessor on or before the first Monday in May.[3] This list was to contain the annual income, the list of articles subject to a special tax, and all goods, wares, or merchandise manufactured and sold, subject to a specific or *ad valorem* tax. From this list the assessment of taxes was to be made. If the owner failed to make a list, but would consent to disclose all necessary particulars, the proper officer was authorized to make the list. Otherwise, the assessor was authorized to enter into and upon the premises and to make an assessment according to the best information obtainable and then to add fifty per cent to the amount of the items.[4]

The assessments, when completed, were delivered to the collector, who was required to give notice where and when the taxes could be paid. If the taxes were not paid at this time, the collector was required to make a personal demand for them, within twenty days, adding ten per cent to the tax, and if not paid within ten days after such demand, he could distrain and sell the personal property of the delinquent. If insufficient personal property was found, real estate could be distrained and sold.[5]

Provision was made that, in case of proceedings to collect taxes by distraint, if the owner of the property felt aggrieved, he might apply to the assessor for relief. The

[1] 12 *U.S. Stat. at Large*, p. 445.

[2] *Ibid.*, p. 725.

[3] By Act of March 2, 1867, the annual list was made returnable on or before March 1. 14 *U.S. Stat. at Large*, p. 471.

[4] 12 *U.S. Stat. at Large*, pp. 434–35.

[5] *Ibid.*, pp. 439–40.

assessor was required to report the case with such evidence as might be submitted to the Commissioner, who could authorize the tax to be refunded if he considered there was sufficient proof that it had been wrongfully or unjustly assessed.[1] In January, 1863, the Commissioner decided that where a tax had been erroneously assessed, and the list transmitted to the collector, but the tax had not yet been paid, the assessor might certify the fact to the collector and the party so assessed would be relieved. The collector would retain the certificate as his voucher and transmit it to the Commissioner's office with his quarterly report.[2] The following April this decision was revoked, and the collector was required to collect all taxes as returned by the assessor. Claims for taxes improperly paid had to be made to the Commissioner through the collector, supported by the affidavits of the claimant and the certificate of the assessor. If the claim was found correct, a draft was drawn on the collector who received the tax in favor of the claimant. Claims for remission of taxes illegally or erroneously assessed were made to the Commissioner, through the assessor, and if granted, the collector was notified and the party so assessed was relieved from paying the taxes.[3]

Detailed instructions were issued by the Commissioner to the assessors and collectors with regard to the monthly reports which they were required to make. The purpose of these instructions was to insure uniformity and accuracy in returns of assessments and collections, and to facilitate the auditing of the same.[4]

The general plan of administration was not changed by subsequent laws, but the number of officers was increased as the business of the bureau grew. The number of revenue agents authorized was increased from three to five in 1864,[5]

[1] 12 *U.S. Stat. at Large*, p. 445.
[2] Boutwell (1863), p. 250.
[3] *Ibid.*, p. 259.
[4] Estee, pp. 306–08.
[5] Act of June 30, 1864, 13 *U.S. Stat. at Large*, p. 224.

and to ten in 1865.[1] The Secretary of the Treasury was authorized to appoint inspectors in any assessment district where, in his judgment, it was necessary for a proper enforcement of the laws or for the detection of fraud.[2] The Secretary was also given power to appoint, on the recommendation of the Commissioner of Internal Revenues, twenty-five supervisors, whose duty it was to see that all laws and regulations relating to the collection of internal taxes were faithfully executed, to aid in the detection and prevention of fraud, and to examine into the efficiency and conduct of all officers of internal revenue within the district to which they were assigned. The Commissioner was authorized to employ competent detectives, not exceeding twenty-five in number at any one time, whenever in his judgment the necessities of the service might require such assistance.[3] As the business of the Internal Revenue Bureau increased, it became necessary to add at times to the number of clerks employed. Mr. Boutwell reported in 1863 that sixty-eight clerks had been assigned by the Secretary of the Treasury to that bureau,[4] but by 1869 the appropriation bill shows that there were two hundred and twenty-one clerks employed there.[5]

The assessors found it difficult in many instances to secure the necessary information for making an assessment when the annual lists were not returned, as required by law. In order to enable them to perform their duties more successfully, power was given to the assessor to summon a person or his agent to appear before him, to produce books, and to give testimony and answer questions respecting any object liable to a tax.[6] This power caused several cases to be brought before the courts in which the following points were settled: The issuing of a summons is not a

[1] Act of March 3, 1865, 13 *U.S. Stat. at Large*, p. 469.
[2] Act of June 30, 1864, 13 *U.S. Stat. at Large*, p. 224.
[3] Act of July 20, 1868, 15 *U.S. Stat. at Large*, pp. 144–45.
[4] *Senate Ex. Doc. No. 20*, 3d Sess., 37th Cong., 1862–63, p. 2.
[5] 15 *U.S. Stat. at Large*, p. 290. [6] 13 *U.S. Stat. at Large*, p. 226.

judicial act. Congress, in using the word summons, did not intend it to be of the dignity of a writ or other legal process, but simply a notice.[1] A summons should state with reasonable certainty the cause of its being issued: as, that the assessor is dissatisfied with the return, or the like, and the subject-matter of the inquiry. It is not like a mere subpœna to an ordinary witness to appear and give evidence in court, because that refers to the case pending in court, and thus enables the witness to ascertain what is required of him.[2]

When an assessor had issued a summons and the party served neglected or refused to appear and testify under oath, or to produce books, the assessor's power was exhausted. The only method by which he could compel compliance with the exigency of the summons was to make application to a judge or commissioner in the manner prescribed by law, to have the party arrested for contempt.[3] If a person was of the opinion that a demand upon him was not authorized by law, it was his right to refuse compliance until the question should be settled by the proper tribunal and in the mode prescribed by law; and his nonproduction of the books and papers, under such circumstances, was by no means to be taken as an indication that he had been guilty of any omission or violation of the law.[4]

The Act of July 1, 1862, provided that, in case any person exercised a trade or profession for which a license was required without taking out a license, he should be subject to a penalty of three times the amount of the tax, and that one half of this penalty should be paid to the informer on whose evidence the person was convicted.[5] Commissioner

[1] *In re* Meadow and Brothers, 10 *I.R.R.*, p. 74. *Ex parte* Doll, 11 *I.R.R.*, p. 36.

[2] *In re* Phillips, 10 *I.R.R.*, p. 107. Perry *v.* Newsome, 10 *I.R.R.*, p. 20.

[3] Lee *v.* Chadwick, 11 *I.R.R.*, p. 133.

[4] Stanwood *v.* J. and T. Green, 11 *I.R.R.*, p. 134.

[5] 12 *U.S. Stat. at Large*, pp. 453–54.

Boutwell extended this principle by the decision that "when a penalty has been recovered, or exacted on a compromise, the informer will be entitled to a moiety thereof,"[1] without limiting it to informers with regard to licenses. In 1864, the decision of Mr. Boutwell was ratified by an act of Congress.[2] This provision was amended in 1866 so that it was left to the Secretary of the Treasury to make general regulations with regard to what portion of a penalty should go to an informer, but in no case was it to be more than one half of the penalty, or more than $5000.[3]

Certain members of Congress opposed this method of enforcing the law. Mr. W. S. Holman, of Indiana, spoke of it as a "relic of barbarism,"[4] and Mr. L. W. Ross, of Illinois, condemned it severely, saying, "I am opposed to this system of hiring informers; it is bad policy, it is a bad practice, and I think it will have a bad tendency."[5] The Revenue Commission reported that it was "undoubtedly exercising a very demoralizing influence."[6] It was continued, however, until 1872, when the law was repealed, and in its stead the Commissioner was authorized to pay such sums as he deemed necessary to detect and bring to trial persons guilty of violating the internal revenue laws.[7]

The Revenue Commission made other criticisms of the

[1] Boutwell (1863), p. 183.

[2] 13 *U.S. Stat. at Large*, p. 305.

[3] 14 *U.S. Stat. at Large*, p. 145. Secretary McCulloch, in accordance with this provision, made the following regulations. The informer should receive of any penalty —

of the first	$ 500	50 per cent
" " next	1,500	40
" " "	2,000	30
" " "	2,000	25
" " "	2,000	20
" " "	2,000	15
" " "	2,000	10
of all over	13,000 up to $55,000	5

(4 *I.R.R.*, p. 62.)

[4] *Cong. Globe*, 2d Sess., 37th Cong., 1861–62, p. 1323, col. 3.

[5] *Ibid.*, 1st Sess., 39th Cong., 1865–66, p. 2812, col. 2.

[6] *Report of Revenue Commission* (1865–66), p. 47.

[7] Act of June 6, 1872, 17 *U.S. Stat. at Large*, pp. 256–57.

administration of the internal taxes. They said that if the laws were fully and effectually executed the revenue from this source would not fall short of $500,000,000 a year, but in 1865 it was only $211,000,000.[1] It was estimated that for two or three years after the internal taxes went into operation, less than one third of what was paid by the people went into the Treasury, and that nine tenths of what the public paid on spirits failed to pass into the Treasury.[2] The following are some of the leading imperfections which were mentioned: The Internal Revenue Bureau did not have the authority for controlling its own expenditures, and so at times, in the desire not to waste public money, small sums had been saved at an expense of sums of much greater magnitude. As an illustration of this, cases had come to the attention of the Revenue Commission where vigilant officers had devised plans, at slight expense, for simplifying returns or detecting fraud, which had been adopted by the Government, and then the expense had been deducted from their salaries. This acted as a premium for continued inefficiency.

Another cause of criticism arose from the incompetency of officials, especially of the lower ranks.[3] This incompetency was due in many cases to the fact that the salaries paid were not adequate to secure able men.[4] It was also

[1] Table XXIX (Appendix).

[2] *Commercial and Financial Chronicle*, vol. 11, p. 711 (December 3, 1870).

[3] The Internal Revenue Record was a semi-official publication, and the Commissioner recommended that the revenue officers subscribe for it. The following letter is an example of the incompetency of some officers (6 *I.R.R.*, p. 178):—

Egypt Oct 7th 67

Mr. Van Wyck,
sir I dont care to take your Paper I can get all the Law I kneed relative to my office

Your respectful
W. S. Gillespie
ast assessor
3 Div 3 dist
Miss

[4] *Report of Revenue Commission* (1865–66), p. 46.

due to the fact that they received their appointments often as a reward for party service and not because they were qualified to perform the duties of the office.[1] The duties of a revenue officer were often so intricate that experience was very necessary to prevent either willful or unconscious evasion of the law, and yet, owing to the low salaries, changes in personnel were very frequent. In 1867, when there were about 3100 assistant assessors employed, there were 1131 new appointees. Ten revenue agents were authorized by statute and seven changes occurred during this year.[2]

It is practically impossible to determine how much incompetency there was among the higher officers. Probably most of them were competent, but many were dishonest. The Commissioners were without doubt capable and trustworthy men, but from the frauds which were discovered many of the higher officials, such as supervisors, inspectors, and collectors, were evidently dishonest and accumulated much wealth by means of their dishonesty. Organizations whose aim it was to defraud the Government of revenues, such as the "Whiskey Ring," often controlled the appointment of officers who connived with them in evading the taxes. At times some of the men in the Internal Revenue Bureau at Washington were in league with these organizations. The Commissioner found that when he had determined on an investigation of some apparent irregularity, information of his intentions had been secured in advance, and arrangements made which prevented him from detecting frauds which it seemed certain were being perpetrated.[3] Although only a few high officials were convicted of frauds, there were many others who were very generally considered to be guilty if the facts could only be found out. If they had committed irregularities, they had covered their tracks so successfully that they were never punished. There seems

[1] *Report of Special Commissioner of Revenues* (1867), p. 47.
[2] *Finance Report* (1867), p. 267.
[3] McDonald, *Secrets of the Great Whiskey Ring*, p. 48.

good ground for concluding that for some years after the close of the war the whole administration was so honeycombed with graft and corruption that the entire system of internal taxes was viewed with suspicion and distrust.

Summarizing, it would seem that the greatest weakness of the system was the incapacity of the lower officers and the dishonesty of the higher ones. It took some years to surmount these evils, and the administration did not prove to be really successful until after the period to which this study is limited. In 1873 the plan of local administration through numerous assessors and assistant assessors was given up, and the assessment lists were made up in the Commissioner's office at Washington, so that greater centralization was secured. With the passage of time, however, and without very material changes in the law, when more care was used in selecting officers and more vigor shown in prosecuting and punishing irregularities in office, the administration of the Internal Revenue Bureau proved to be on a par with the other departments of the Federal Government.

In 1865–66, the Revenue Commission advised an entire reorganization of the whole machinery of administration in the Bureau at Washington and the passing of a civil service bill for regulating the appointment and dismissal of assessors and collectors.[1] Special Commissioner Wells renewed the suggestion in his report for 1867.[2] In 1868, Commissioner Rollins recommended that the Internal Revenue Office be erected into a separate department,[3] but these suggestions were not followed by Congress. The system of administration remained unchanged until July 1, 1873. Then the offices of assessor and assistant assessor were discontinued, and certain of their duties were transferred to the collectors and others to the central office at Wash-

[1] *Report of Revenue Commission* (1865–66), pp. 48–50.
[2] *Report of Special Revenue Commissioner* (1867), pp. 45–48.
[3] *Finance Report* (1868), p. 490.

ington.[1] This was a very radical change, but as most of the internal taxes which had not been repealed were now collected by means of stamps, the service of assessors could be readily dispensed with and a great saving was made in expenses.

During the period of the war the taxes were very imperfectly collected in the seceded States. In fact, in most parts of the South there were no tax officials appointed. Secretary McCulloch, because of the facts that there had been no revenue officers to whom payment of taxes could be made, that the people (many of them involuntarily) had been subject to heavy taxes by the Confederate Government, and that they had been greatly exhausted by the ravages of war, issued a circular June 21, 1865, declaring, "that, without waiving in any degree the right of the Government in respect to taxes which had before that time accrued in the States and Territories in insurrection, or assuming to exonerate the taxpayer from his legal responsibility for such taxes, the Department did not deem it advisable to insist, at present, on their payment, so far as they were payable prior to the establishment of a collection district embracing a territory in which the taxpayer resided." [2] The Secretary then recommended to Congress, —

"First. That the collection of internal revenue taxes which accrued before the establishment of revenue offices in the States recently in rebellion be indefinitely postponed.

"Second. That all sales of property in those States, under the direct tax law, be suspended until the States shall have an opportunity of assuming (as was done by the loyal States) the payment of the tax assessed upon them.[3]

"Third. That all transactions in such States, which may be invalid by the non-use of stamps, be legalized as far as it is in the power of Congress to legalize them." [4]

[1] Act of December 24, 1872, 17 *U.S. Stat. at Large*, pp. 401–03.
[2] *Finance Report* (1865), p. 29.
[3] *Supra*, pp. 31, 35.
[4] *Finance Report* (1865), p. 30.

These suggestions were in part adopted,[1] and as rapidly as possible the system in operation in the Northern States was extended to the Southern States.

One important point still to be considered is the cost of administration of the laws. One common objection to internal taxes, when they were first being discussed in 1861 and 1862, was that they were very expensive to collect. Congress recognized this with regard to certain taxes, and allowed the States a reduction of ten to fifteen per cent if they assumed the collection of the direct taxes.[2] The Internal Revenue Commissioners in their annual reports gave tables showing the expenses of collecting the revenues, but qualified these tables with the statement that "the accounts of this Bureau do not show precisely the expenses of collecting the revenue for each year, because the amounts charged during each year embrace expenses actually incurred in the preceding year." [3] The cost of collection from September 1, 1862, to June 30, 1865, was given as a whole, but after the latter date it was given by fiscal years. The following table has been compiled from different reports of the Commissioners: —

EXPENSE OF COLLECTING INTERNAL TAXES FROM 1862–1868 *

Fiscal Year	Gross collections	Refund	Drawback	Net collections	Expenses	Per cent of gross collections	Per cent of net collections
Sept. 1, 1862, to June 30							
1865	$328,275,277.69	$ 660,204.73	$1,386,087.35	$326,228,985.61	$10,298,550.91	3.14	3.16†
1866	310,906,984.17	514,844.43	798,866.73	309,593,273.01	7,689,700.46	2.47	2.49†
1867	265,920,474.65	706,581.69	1,864,631.68	263,349,261.28	8,982,686.08	3.38	3.41‡
1868	191,180,564.28	1,018,334.81	1,379,980.01	188,782,249.46	9,327,801.74	4.88	4.94‡

* These figures do not include the revenues collected under the direct tax of 1861.
† *Finance Report* (1867), p. 264.
‡ *Ibid.*, 1868, p. 473.

It can be seen from this table that the expenses of collection were not unduly high. They were necessarily higher

[1] 14 *U.S. Stat. at Large*, pp. 143, 331.
[2] *Supra*, p. 25. [3] *Finance Report* (1869), p. 17.

in the first years when all the machinery was new, but by 1866 they had fallen below the cost of collection of inland revenues of Great Britain and Ireland. In these two countries the taxes were from few sources, the system of collection had long been in use, and there was a small extent of territory, all of which conditions were favorable to economy; but in the year 1866 the cost of net collections was three and twenty-five hundredths per cent,[1] or three fourths of one per cent higher than the cost in the United States. The increase in expense in 1867 was due largely to the great increase in number of officers employed in the Southern States over those employed in 1866. The still greater increase in 1868 was due to two main causes: (1) The pay of assistant assessors was increased from four to five dollars per day, and (2) the rates of the taxes on many articles had been lowered, which reduced the income very materially, but made no change in the number of officers necessary for the collection.[2]

It may be asked, Was there any plan or system to the war taxes? At first glance one would be inclined to say that there was not. Mr. David A. Wells has aptly said, "The only principle recognized — if it can be called a principle — was akin to that recommended to the traditionary Irishman on his visit to Donnybrook Fair, 'Wherever you see a head, hit it.' Wherever you find an article, a product, a trade, a profession, or a source of income, tax it."[3] Under such conditions as existed at the outbreak of the war, when the one great demand was revenues, there was no time for investigations and for planning well-devised systems of taxation. Nevertheless there seem to have been some plans from the very first.

The policy which Mr. Chase first suggested, and which

[1] The net receipts were £39,096,414 at the rate per cent of £3 13*s.* 6*d.* *Finance Report* (1867), p. 263.

[2] *Finance Report* (1868), p. 473.

[3] *Recent Financial, Industrial, and Commercial Experiences of the United States*, p. 17.

was followed to a certain extent by Congress, was to meet most of the extraordinary expenses by loans, and so far as taxation was necessary to put it mainly upon luxuries, such as distilled spirits, tobacco, and carriages. However, as the necessities of the Government continued to increase and it became evident that more and more income must be secured by taxation, the loan policy, although continued, was supplemented by an extensive system of taxation. The central idea seemed to be that of diffusion. So it came about that, while the early laws levied only a direct tax, an income tax, and a few excises such as those on liquors and tobacco, the later laws were made to cover almost everything. License taxes were imposed and from time to time added to, as new occupations and professions suggested themselves to the minds of the members of Congress. Stamps were required for almost every kind of conveyance or transaction. Excises were extended so that they included, not only luxuries, but also the great body of the necessities of life.

Notwithstanding the fact that taxes were extended to reach almost everything available, the idea was consciously continued of making them higher on luxuries and on such commodities as gave evidences that the consumer was a person of some means. So, too, the income tax was made progressive, as was also the inheritance tax. Stamp taxes on conveyances increased as the amount of property transferred increased. The taxes on liquors and tobacco were made many times higher than those on most manufactured articles. The rate on manufactured articles, in general, never reached more than six per cent, while that on spirits for four years was between one thousand and twelve hundred per cent. The general rate of license taxes on various kinds of business was from $10 to $25; but on lotteries and theaters the rate was $100. For over a year the rate on the former was $1000.

As soon as the attention of the country was no longer

absorbed by the war, the need of a systematic revision of the revenues was recognized. In order to achieve such a revision, the Revenue Commission recommended certain changes, already referred to,[1] which they thought would secure "concreteness" in place of "diffuseness." Most of these proposals were not adopted at once by Congress, but soon a beginning was made by repealing certain taxes. The way in which the repeal was begun was just about as unsystematic as had been the legislation imposing the taxes. But again we can see evidence of the tendency to favor the necessities of life by retaining the taxes on luxuries.

In 1867, the House Ways and Means Committee prepared a bill by which they hoped to bring together into one body all the internal tax laws, so as to make a really understandable and workable system.[2] But because of the impatience of the majority of the House of Representatives to secure legislation with regard to the taxes on spirits and tobacco, the committee's bill was dropped without coming to a vote. From time to time, however, certain taxes were repealed, until the idea was pretty generally recognized that our internal taxes were to be retained on only a few articles and these were to be the luxuries of life.

In conclusion, it may be said that while the administration of these taxes from 1862 to 1870 was at no time remarkable for its efficiency, yet there was a steady improvement. Many frauds were discovered, and doubtless there were many perpetrated that were never discovered, but the higher officials were competent men and deserve much credit for the energy and ability shown in the performance of their public duties. In many instances, the fault lay more with Congress than with the Revenue Bureau, for Congressmen, influenced by party and sectional interests,

[1] *Supra*, pp. 235–37.

[2] At this time there were twenty-five acts on the statute books dealing with internal taxes. *Cong. Globe*, 2d Sess., 40th Cong., 1867–68, Appendix, p. 316, col. 1.

often refused to follow the recommendations made by the officials, whose experience and studies had especially fitted them for suggesting important changes. If the repeated suggestions for requiring the assessors and collectors to pass civil service examinations had been followed, the administration would have been benefited in many ways, but the desire for patronage was an important factor in preventing the support of such a law by members of Congress. Considering the fact that there was no machinery in existence in 1861 for the collection of internal taxes, and that a majority of the men in public life had had no experience with such taxes, it is remarkable with what success these laws were put into execution.

Not only did the officials deserve credit for the way in which they planned and administered the taxes, but the people in general also deserved commendation for the support they gave the laws and the officers. When the Civil War hostilities had ceased and the demands on the Treasury had lessened, there was a pretty general call for reduction of taxes; but as long as the war lasted the way in which the people met the demands for greater and greater portions of their incomes to support the Government is a credit to the country. This can be best shown by quotations from officers and the press of that period. The New York "Tribune," in 1861, prophesied that the people would "cheerfully submit" to a system of taxation which the House Committee on Ways and Means were elaborating.[1] The New York "Times," in discussing the estimated expenses of $365,000,000 for 1862, said: "Large as is this probable sum, the loyal people of the United States are quite able to meet it, and will no more hesitate to incur the charge than an affectionate father would cavil at the cost of a ladder required to effect the escape of his child from the roof of a burning dwelling. The Union, offspring of the Revolution, and child of the Constitution, must be

[1] December 26, 1861, p. 4, col. 4.

preserved, and any sacrifice of treasure or of life will be cheerfully made to achieve this object." [1]

On February 3, 1862, a petition of three hundred and twenty residents of Genesee County, New York, asked Congress to increase taxes sufficiently to pay interest on the public debt and establish a sinking fund.[2] A Washington correspondent of the New York "Times" wrote in January, 1862: "Gentlemen here, upon whom rests much of the responsibility of shaping the financial policy of the Government at this time, are rejoiced to find the Press so generally urging liberal resort to taxation. The absurd fear of calling upon the people for the means to preserve the National integrity . . . is worthy only of the political demagogue." [3] This same paper in March, 1863, said: "The latest cry of the croakers is that we must end the war at all hazards this Spring. . . . And the reason given for this advice is, that the war is exhausting our resources — that our business is prostrated, our population diminished, our taxes becoming insupportable, the career of our prosperity checked, and the whole vigor and vitality of our nation wasted. . . . We do not believe the great mass of the American people are in favor of such a course." [4] The Philadelphia Board of Trade, in 1862, adopted the resolution: "There is no just cause to doubt either the ability of the people or their willingness to do their part. They will be found in every way equal to the occasion." [5]

Commissioner Boutwell in his first report to Congress said: "Thus far the law has not only not been resisted, but its officers have been accepted and welcomed, and the experience of the country justifies the statement that the meas-

[1] June 8, 1861, p. 4, col. 4.

[2] *Miscellaneous Papers of Ways and Means Committee*, 37th Congress, in office of File Clerk of the House of Representatives.

[3] January 3, 1862, p. 9, col. 1.

[4] March 14, 1863, p. 4, col. 2.

[5] *Report of Special Committee of Philadelphia Board of Trade* (1862), p. 3.

ure, in plan and in detail, was framed with a high degree of wisdom." [1] Commissioner Lewis the next year reported: "The present tax laws, on the whole, have been not merely endured, but welcomed by the people in a manner, it is believed, elsewhere unparalleled." [2]

A convention of United States tax assessors was held at Cleveland, Ohio, in 1863, which adopted the following resolutions: —

"*Resolved*, 1. That the loyal people of the United States have universally exhibited, in their relations to the Assessors and Collectors of Internal Revenue, a cordial and most generous acquiescence in the burthens imposed upon them, and in the sacrifices which they have been called to make to suppress an unholy rebellion, and to sustain the integrity of the best Government the world has ever seen, they have shown that they are not only willing to place treasure, blood, suffering, and life upon the altar of a common country, but have exhibited an almost universal devotion of their hearts to the same holy cause.

"2. That the administration of the General Government and the imposition by Congress of any and all burthens of taxation and personal sacrifice, have met with enthusiastic and unqualified support of the people of the United States." [3]

In the New York "Tribune" for April 22, 1864, we find the statement: "The readiness of the People to bear taxation is one of the best signs of the times. See how they rush to tax themselves, through Sanitary Fairs and other devices, for the benefit of our sick and wounded heroes!" [4]

The "Nation," in 1865, said: "No fact speaks so well for the loyalty of the American people, and in support of their determination to pay their debts, as the readiness with which they submit to the payment of war taxes in time of peace." [5] C. N. Emerson, writing in 1866, said that the

[1] *Senate Ex. Doc. No. 20*, 3d Sess., 37th Cong., 1862–63, p. 5.
[2] *Finance Report* (1863), p. 62. [3] *Report of Convention*, p. 19.
[4] Page 4, col. 3. [5] Vol. 1, p. 297 (September 7, 1865).

vast revenue collected since 1862 had been realized with but little embarrassment to the industrial pursuits of the country; the people had cheerfully responded to the unprecedented burden upon their resources; and its success as a financial measure had excited the astonishment and admiration of foreign nations.[1]

Special Commissioner David A. Wells, writing in 1871, said: "We have said that the people of the United States submitted to such a system. They did more; for such was the fervor of patriotism and the determination to push the war to a successful issue that they rejoiced in it; and during the continuance of hostilities there was no movement or protest attempted against the system which found any noticeable response among the masses. The country was rich, and its accumulated resources had not for nearly two generations been in any degree drawn upon by the National Government for extraordinary taxation. Wealth, moreover, was very uniformly distributed; and the people pointed with pride to the annually increasing receipts of revenue under the new system." [2]

Many similar quotations could be given, but these, it seems, are sufficient to show that the people of the United States, as a whole, did not oppose the internal taxes.

[1] *Internal Revenue Guide*, p. 10, note.
[2] *Cobden Club Essays*, Second Series, 1871–72, p. 479.

APPENDIX

TABLE I

AMOUNT OF DISCOUNT ALLOWED TO EACH STATE AND TERRITORY WHICH ASSUMED THE PAYMENT OF THE DIRECT TAX LEVIED UNDER ACT OF AUGUST 5, 1861[1]

State or Territory	Discount	State or Territory	Discount
California	$31,583.26	Missouri	$114,169.10
Connecticut	46,232.10	Nevada	688.90
Delaware	4,350.50	New Hampshire	32,761.00
Illinois	171,982.70	New Jersey	67,519.17
Indiana	135,731.30	New York	390,587.81
Iowa	67,813.20	Ohio	235,063.40
Kansas	10,761.50	Oregon	5,271.10
Kentucky	107,054.30	Pennsylvania	292,007.90
Maine	63,123.90	Rhode Island	17,544.56
Maryland	65,523.50	Vermont	31,660.20
Massachusetts	123,687.19	West Virginia	27,172.72
Michigan	75,264.50	Wisconsin	73,153.26
Minnesota	16,278.00		
		Total	$2,206,985.07[2]

[1] *Cong. Record*, vol. 22, p. 3218, col. 2.
[2] There is a slight error of $.60 in the figures as added in the *Congressional Record*.

TABLE II

AMOUNTS OF MONEY PAID INTO THE FEDERAL TREASURY EACH YEAR FROM 1862 TO 1888, UNDER THE DIRECT TAX ACT OF AUGUST 5, 1861[1]

Year	Amount	Year	Amount
1862	$1,795,331.73	1876	$93,798.80
1863	1,485,103.61	1877	—
1864	475,648.96	1878	—
1865	1,200,573.03	1879	—
1866	1,974,754.12	1880	30.85
1867	4,200,233.70	1881	1,516.89
1868	1,788,145.85	1882	160,141.69
1869	765,685.61	1883	108,156.60
1870	229,102.88	1884	70,720.75
1871	580,355.37	1885	—
1872	—	1886	108,239.94
1873	315,254.51	1887	32,892.05
1874	—	1888	1,565.82
1875	—		
		Total	$15,387,252.76

[1] *Finance Report* (1888), pp. xciv and xcvi.

TABLE IV[1]

COMPARATIVE TABLE SHOWING THE PER CENT OF THE TOTAL FEDERAL INCOME TAX COLLECTED IN THE VARIOUS STATES AND TERRITORIES FROM 1864 TO 1872[2]

States and Territories	1864	1865	1866	1867	1868	1869	1870	1871	1872
Alabama	—	—	.0139	.6217	.4449	.2369	.5053	.4258	.2531
Arizona	—	—	—	—	.0164	.0142	.0170	.0323	.0132
Arkansas	—	—	.0124	.0526	.0937	.0973	.2082	.0985	.0568
California	3.2157	2.5909	1.9929	2.7288	5.0155	3.7953	3.2214	3.2746	2.5828
Colorado	.0950	.1312	.1198	.1183	.1033	.0696	.0716	.1098	.2083
Connecticut	2.9736	2.5758	2.9469	3.4447	2.3631	2.7992	2.8656	1.6137	2.5559
Dakota	—	—	—	.0008	.0043	.0024	.0024	.0004	.0006
Delaware	.4621	.4414	.3679	.3087	.3222	.4915	.2388	.3015	.2811
District of Columbia	.8334	.3318	.5415	.6592	.5815	.5939	.6517	.4048	.4374
Florida	—	—	—	.0218	.0656	.0781	.0433	.1138	.0381
Georgia	—	—	.1108	.4933	.8779	.8490	.9868	.9808	.9462
Idaho	—	—	.0378	.0438	.0997	.0813	.0545	.0768	.0234
Illinois	3.6612	3.9164	5.6011	4.6441	5.0642	6.8407	5.3612	2.2334	3.6010
Indiana	1.7830	2.0601	2.4251	1.5803	1.2048	1.4848	1.2870	.8453	1.1523
Iowa	.3706	.5549	.7551	.6537	.6803	.8818	.7485	.5729	.8436
Kansas	.1208	.1855	.2124	.2128	.1525	.1744	.1842	.1251	.1166
Kentucky	2.1702	2.6845	2.3351	1.9699	1.7828	1.6910	1.9865	1.4012	1.7088
Louisiana	.2510	.4609	.3904	.9022	1.2618	.8131	1.5739	1.2863	.7255
Maine	.8036	.6787	.5961	.6026	.6124	.6370	.7648	.4980	.6769
Maryland	3.4019	2.8731	2.9599	2.6092	3.0274	2.6885	3.2738	2.7650	3.4833
Massachusetts	13.1620	12.2529	11.5826	13.6183	12.6423	11.1829	12.2890	10.4042	14.7991
Michigan	.9326	.8161	1.2004	1.0252	1.7863	1.7775	1.5299	2.0486	1.6179
Minnesota	.0845	.1151	.1335	.1631	.2481	.2579	.2969	.1514	.4384

[1] *Ex. Doc. No. 4*, 3d Sess., 42d Cong., 1872–73, p. 115.

[2] The tax on salaries is not included.

TABLE III

TAXES RECEIVED BY THE FEDERAL GOVERNMENT FROM 1863 TO 1877 ON INCOMES, CLASSIFIED ACCORDING TO THE RATE OF THE TAX AND THE SOURCE OF THE INCOME[1]

Income	1863	1864	1865	1866	1867	1868	1869	1870	1871	1872	1873	1874	1875	1876	1877	Total
Over $600 and not over $10,000 (a)	$172,770.35	$7,944,153.51	$9,697,246.96	—	—	—	—	—	—	—	—	—	—	—	—	$17,814,170.82
Over $10,000 (b)	277,461.65	6,855,160.37	9,362,339.46	—	—	—	—	—	—	—	—	—	—	—	—	16,494,961.48
From property of citizens abroad (c)	1,872.11	58,074.51	169,924.17	—	—	—	—	—	—	—	—	—	—	—	—	230,470.79
Interest on U.S. securities (d)	3,637.15	75,373.93	133,402.76	—	—	—	—	—	—	—	—	—	—	—	—	212,413.84
Over $600 and not over $5,000 (e)	—	—	539,143.28	$26,046,759.76	$31,492,694.16	—	—	—	—	—	—	—	—	—	—	58,078,597.20
Over 5,000 (f)	—	—	801,941.99	34,501,122.67	25,547,946.51	—	—	—	—	—	—	—	—	—	—	60,851,011.17
Over 1,000 (g)	—	—	—	—	—	$32,027,610.78	$25,025,068.86	$27,115,046.11	$10,680,966.69	—	—	—	—	—	—	94,848,692.44
Over 2,000 (h)	—	—	—	—	—	—	—	—	3,754,982.70	$8,416,685.87	$3,927,252.76	—	—	—	—	16,097,921.33
From bank dividends and additions to surplus	766,665.85	1,577,010.73	3,991,211.42	4,193,070.61	3,278,322.56	2,914,841.41	3,769,185.69	3,573,272.45	1,542,667.75	2,162,564.31	85,271.23	—	—	—	—	27,854,024.01
bank profits not divided or added to surplus	—	—	25,511.49	47,592.59	496,652.76	709,933.58	—	—	—	—	—	—	—	—	—	1,279,690.42
canal co. dividends, etc.	4,210.40	92,120.69	386,223.13	203,233.77	195,382.19	215,270.96	230,092.81	251,048.75	47,042.89	136,052.35	24,615.17	—	—	—	—	1,785,812.11
insurance co. dividends, etc.	225,485.44	445,366.17	768,770.93	783,882.05	563,473.93	605,489.78	847,608.33	926,549.00	243,205.21	270,561.14	8,678.17	—	—	—	—	5,689,070.15
railroad co. dividends, etc.	338,533.49	927,393.38	2,471,914.39	2,205,852.45	3,379,262.49 [1]	2,630,174.08	2,831,140.03	2,898,802.[illegible]	1,121,439.59	1,851,296.30	760,930.35	—	—	—	—	21,416,738.76
interest on bonds	253,398.72	596,859.09	847,683.61	1,255,916.98		1,259,155.80	1,503,846.51	1,849,369.44	974,345.35	1,291,026.68	135,642.55	—	—	—	—	9,987,844.63
turnpike co. dividends, etc.	1,101.38	17,494.73	28,212.03	27,333.46	30,703.06	49,551.57	22,381.09	32,289.24	11,738.02	14,140.48	2,379.67	—	—	—	—	237,324.73
salaries of U.S. officers and employees	696,181.71	1,705,124.63	2,826,491.82	3,717,394.69	1,029,991.98	1,043,561.40	561,962.52	1,109,526.42	787,262.55	294,564.65	117,541.72	$139,472.09	$232.64	$588.27	$97.79	14,029,994.88
Special tax of 1864	—	—	28,929,312.02[2]	452,550.09[2]	—	—	—	—	—	—	—	—	—	—	—	29,381,862.11
Total	$2,741,858.25	$20,294,731.74	$60,979,529.46	$73,434,709.12	$66,014,429.34	$41,455,598.36	$34,791,855.84	$37,775,873.62	$19,162,050.75	$14,436,861.78	$5,062,311.62	$139,472.09	$232.64	$588.27	$97.79	$376,290,000.67

[1] *Ex. Doc. No. 4*, 2d Sess., 46th Cong., 1879–80, pp. 167–70.
[2] *Ibid.*, p. 171.

(a) Act of July 1, 1862; rate, 3 per cent.
(b) *Ibid.*; rate, 5 per cent.
(c) *Ibid.*; rate, 5 per cent.
(d) *Ibid.*; rate, 1½ per cent.
(e) Act of March 3, 1865; rate, 5 per cent.
(f) *Ibid.*; rate, 10 per cent.
(g) Act of March 2, 1867; rate, 5 per cent.
(h) Act of July 14, 1870; rate, 2½ per cent.
(i) Dividends and interest not returned separately.

TABLE IV (*continued*)

States and Territories	1864	1865	1866	1867	1868	1869	1870	1871	1872
Mississippi	—	—	.0001	.0935	.2687	.0871	.2489	.3925	.1245
Missouri	2.1972	3.4070	2.1379	1.9014	1.7119	2.0896	2.2249	2.1776	1.3223
Montana	—	.0357	.0653	.0318	.0710	.0572	.1117	.0647	.0448
Nebraska	.0393	.0371	.0632	.0621	.0725	.1036	.1734	.0264	.0401
Nevada	.2095	.1987	.1282	.1532	.3015	.3734	.2343	.1994	.1529
New Hampshire	.4178	.4371	.4035	.4619	.5783	.5444	.4624	.3780	.3216
New Jersey	2.9580	2.9451	3.6035	3.8659	5.1026	4.8199	4.0536	2.2475	4.2078
New Mexico	.0058	.0645	.0379	.0335	.0498	.0305	.0351	.0443	.0352
New York	34.3457	31.1608	30.5975	30.9421	29.4513	31.3374	28.4185	39.0899	30.5023
North Carolina	—	—	.0014	.0961	.1358	.1789	.2186	.2471	.2967
Ohio	7.4278	7.3215	8.2381	7.5124	5.3275	5.9584	6.1721	4.5223	5.9357
Oregon	.1969	.0815	.1395	.2156	.3900	.1137	.4752	.3069	.2556
Pennsylvania	13.7799	17.6782	15.9335	12.7769	13.1403	11.7174	13.6721	15.5481	14.0158
Rhode Island	2.3984	1.8883	1.9853	2.3633	1.2450	1.7875	1.4630	1.1661	1.6540
South Carolina	—	—	.0004	.0957	.5115	.2757	.3907	.4230	.3438
Tennessee	.1473	.4892	.4659	.6099	.6346	.6286	.7770	.5555	.6656
Texas	—	—	.0220	.2390	.4828	.3117	.3015	.3994	.5311
Utah	.0217	.0259	.0378	.0313	.0388	.0670	.0266	.0650	.1633
Vermont	.2989	.3532	.3773	.4164	.3660	.3503	.4214	.4881	.5888
Virginia	.2196	.0717	.2109	.3149	.4406	.5171	.7163	.5312	.8454
Washington	.0398	.0537	.0318	.0445	.0503	.0332	.0876	.0240	.0370
West Virginia	.2296	.3274	.3799	.3201	.2633	.2707	.2684	.1716	.2399
Wisconsin	.7456	.7541	.8035	.9434	.9149	.7998	.8673	1.1590	1.1092
Wyoming	—	—	—	—	—	.0086	.0171	.0082	.0063
Totals	100.0000	100.0000	100.0000	100.0000	100.0000	100.0000	100.0000	100.0000	100.0000

TABLE V

NUMBER OF PERSONS PAYING AN INCOME TAX TO THE FEDERAL GOVERNMENT FROM 1866 TO 1872; FROM 1867 TO 1872 CLASSIFIED ACCORDING TO THE AMOUNT OF TAXES PAID AND THE SIZE OF THE INCOME[1]

Tax	Income	1866	1867	1868	1869	1870	1871	1872
$20 or less	$1,000 to $1,400	—	101,219	100,558	107,997	112,874	—	—
20 or less	2,000 to 2,800	—	—	—	—	—	25,479	22,619
20 to $50	1,400 to 2,000	—	68,680	55,949	69,184	68,900	—	—
20 to 50	2,800 to 4,000	—	—	—	—	—	19,795	18,887
50 to 100	2,000 to 3,000	—	40,899	38,957	41,196	40,839	—	—
50 to 100	4,000 to 6,000	—	—	—	—	—	12,917	13,335
100 to 500	3,000 to 11,000	—	46,055	51,188	45,002	44,732	—	—
100 to 250	6,000 to 12,000	—	—	—	—	—	10,742	11,355
250 to 500	12,000 to 22,000	—	—	—	—	—	3,707	4,264
Over 500	Over 11,000	—	9,282	7,965	9,464	9,316	—	—
Over 500	Over 22,000	—	—	—	—	—	2,135	2,489
Total	—	460,170[2]	266,135	254,617	272,843	276,661	74,775	72,949

[1] *Ex. Doc. No. 4*, 3d Sess., 42d Cong., 1872–73, p. vi.

[2] *Finance Report* (1867), p. 259.

TABLE VI

TAXES RECEIVED BY THE FEDERAL GOVERNMENT ON LEGACIES AND SUCCESSIONS FROM 1863 TO 1871, CLASSIFIED ACCORDING TO THE DEGREE OF RELATIONSHIP OF THE HEIR TO THE DECEDENT[1]

LEGACIES	1863	1864	1865	1866	1867	1868	1869	1870	1871	Total
Lineal issue or ancestor, sister or brother	$25,869.16	$176,917.33	$298,756.48	$642,081.67	$783,126.52	$1,033,833.57	$858,428.84	$1,022,834.88	$874,946.37	$5,716,794.82
Descendant of brother or sister	11,332.63	37,648.61	87,081.04	105,531.17	177,394.46	172,854.33	142,406.46	232,251.13	216,356.56	1,182,856.39
Uncle or aunt or descendant of same	634.56	12,232.63	25,840.81	28,993.27	32,075.56	40,375.63	42,549.01	28,217.77	38,646.13	249,565.37
Great uncle or aunt or descendant of same	285.78	322.22	16,460.79	11,300.39	15,012.71	13,506.37	20,680.03	11,907.71	13,366.56	102,842.56
Stranger in blood, corporation, etc.	18,470.48	84,040.23	78,612.73	136,917.47	221,135.71	257,817.74	180,772.67	377,371.44	286,771.72	1,641,910.19
Total	$56,592.61	$311,161.02	$506,751.85	$924,823.97	$1,228,744.96	$1,518,387.64	$1,244,837.01	$1,672,582.93	$1,430,087.34	$8,893,969.33
SUCCESSIONS										
Lineal issue or ancestor	—	—	$24,043.88	$175,789.10	$455,188.55	$910,794.70	$852,487.82	$977,068.40	$751,176.79	$4,146,549.24
Brother or sister or descendant of same	—	—	8,468.35	49,899.07	104,381.81	222,386.63	182,167.38	222,196.35	171,843.72	961,343.31
Uncle or aunt or descendant of same	—	—	1,166.75	1,902.02	9,639.32	20,174.14	12,952.44	32,775.00	16,511.66	95,121.33
Great uncle or aunt or descendant of same	—	—	—	1,460.63	7,780.86	4,840.77	3,796.91	9,754.46	1,499.28	29,132.91
Stranger in blood, corporation, etc.	—	—	6,272.34	17,104.06	59,579.65	146,827.36	138,351.67	177,448.36	133,948.34	679,531.78
Total	—	—	$39,951.32	$246,154.88	$636,570.19	$1,305,023.60	$1,189,756.22	$1,419,242.57	$1,074,979.79	$5,911,678.57
Total of legacies and successions	$56,592.61	$311,161.02	$546,703.17	$1,170,978.85	$1,865,315.15	$2,823,411.24	$2,434,593.23	$3,091,825.50	$2,505,067.13	$14,805,647.90

1 *Ex. Doc. No. 4*, 2d Sess., 46th Cong., 1879–80, pp. 171–74.

TABLE VII

COMPARATIVE TABLE SHOWING THE PER CENT OF TOTAL FEDERAL LEGACY TAXES COLLECTED IN THE VARIOUS STATES AND TERRITORIES FROM 1864 TO 1871[1]

States and Territories	Percentage of Receipts from Legacies							
	1864	1865	1866	1867	1868	1869	1870	1871
Alabama	—	—	.0038	.3996	.4476	.6425	.7935	.9668
Arizona	—	—	—	—	—	—	.0048	—
Arkansas	—	—	—	.0285	.0536	.0510	.0618	.0358
California	.5711	1.0689	.6378	.7329	.7753	1.2640	.3376	.6116
Colorado	—	—	—	—	.0024	—	.0097	—
Connecticut	4.6296	6.4448	4.7568	5.7396	3.5614	7.0228	4.3994	4.3515
Dakota	—	—	—	—	—	—	—	—
Delaware	.4805	.4561	.4991	.4681	1.2999	.6857	.7002	.8497
District of Columbia	.4586	.5021	.4006	.3385	.5819	.4188	.5754	.6386
Florida	—	—	—	—	.0113	.0434	.0571	.0192
Georgia	—	—	.1973	1.7058	.5050	.6545	1.7741	1.8581
Idaho	—	—	—	—	—	—	—	—
Illinois	.3808	2.6449	2.4708	1.5274	2.7050	2.0499	2.2825	1.8434
Indiana	.9044	.8802	1.3226	.9765	1.5619	1.1429	.9049	1.0764
Iowa	.1555	.3547	.2254	.1826	.3298	.2661	.3485	.3794
Kansas	—	—	—	.0165	.0719	.0059	.1221	.0336
Kentucky	2.0842	2.9960	2.2291	2.8175	2.4858	2.5175	2.7731	1.8794
Louisiana	1.4283	1.4307	1.1278	1.2658	.7230	.4524	1.5627	.5472
Maine	1.9392	.8638	1.2441	.8478	1.3937	1.7275	1.1427	1.2479
Maryland	3.5892	5.0397	2.7514	3.6948	3.4291	5.7156	3.9635	3.7733
Massachusetts	32.0409	21.4230	18.3342	15.9441	13.4205	14.4507	12.2553	20.4275
Michigan	.2821	.1543	.2971	.7512	.6588	.9556	.7881	.7705
Minnesota	.0137	—	.0174	.0550	.0938	.0209	.0436	.1214
Mississippi	—	—	.0035	.1521	.1588	.2071	.1609	.3458
Missouri	.4416	.5205	.3926	.6924	1.6340	2.1325	1.2759	1.1601
Montana	—	—	—	—	—	—	—	—
Nebraska	—	—	—	—	—	—	.0146	.0087
Nevada	—	.0194	.0033	—	.0231	.0086	.0062	—
New Hampshire	1.3868	3.5305	1.4379	2.0448	1.1825	.9578	.9375	1.3328
New Jersey	5.2580	2.9721	6.0618	4.4706	5.0123	3.5467	8.4430	4.3683
New Mexico	.0075	.0433	.0195	.0854	.0423	.0461	.0229	.0044
New York	22.7447	18.1553	20.1689	26.8169	27.8117	25.3740	29.1953	23.7268
North Carolina	—	—	—	.1117	.2285	.2588	.2414	.2537
Ohio	4.5894	7.4095	7.3281	4.7234	5.4176	3.6710	4.1471	4.3777
Oregon	—	.0099	.0142	.0141	.0269	.0294	.0641	.0446
Pennsylvania	12.5365	18.3443	16.8548	15.6830	17.4572	17.2851	13.3383	16.6090
Rhode Island	2.7140	1.4422	8.9119	2.3363	1.2785	1.7265	2.2554	1.4410
South Carolina	—	—	.0676	.2270	.6122	.5310	.3381	.3779
Tennessee	.0092	.1253	.6334	.4445	1.0035	.7210	1.8229	1.5753
Texas	—	—	.0054	.1071	.4580	.3021	.0701	.1566
Utah	—	—	.0007	—	.0066	—	.0159	—
Vermont	.9511	1.2798	.6337	1.6920	.9507	1.0451	.6987	1.1208
Virginia	.0607	.9551	.2516	2.0550	1.4419	.8341	1.2030	1.1782
Washington	—	—	.0026	.0034	.2450	—	.0244	—
West Virginia	.2824	.6848	.5498	.7546	—	.6216	.3062	.1625
Wisconsin	.0600	.2488	.1434	.0935	.8970	.6138	.5175	.3247
Wyoming	—	—	—	—	—	—	—	—
Totals	100.0000	100.0000	100 0000	100.0000	100.0000	100.0000	100.0000	100.0000

[1] *Ex. Doc. No. 4*, 3d Sess., 42d Cong., 1872–73, p. 122.

TABLE VIII

COMPARATIVE TABLE SHOWING THE PER CENT OF TOTAL FEDERAL SUCCESSION TAXES COLLECTED IN THE VARIOUS STATES AND TERRITORIES FROM 1865 TO 1871[1]

States and Territories	Percentage of Receipts from Successions							
	1864	1865	1866	1867	1868	1869	1870	1871
Alabama	—	—	.0975	.3471	.4362	.6533	1.2046	1.1772
Arizona	—	—	—	—	—	—	.0042	—
Arkansas	—	—	.0104	.0366	.0407	.0919	.4559	.1448
California	—	1.6749	.1544	.5427	.9409	.2689	.3957	.5190
Colorado	—	—	—	—	—	—	—	—
Connecticut	—	4.6155	3.5339	3.3061	2.2548	2.9256	1.8703	1.9810
Dakota	—	—	—	—	—	—	—	—
Delaware	—	.1407	.9788	.3512	.7105	.5523	.6168	.7321
District of Columbia	—	.1282	1.1441	.4931	.3102	1.1520	.3743	.8375
Florida	—	—	—	.0018	.0056	.0372	.0864	.0936
Georgia	—	—	.0616	1.1944	.3793	.9086	.8975	.6052
Idaho	—	—	—	—	—	—	—	—
Illinois	—	1.7318	1.6312	3.7038	6.6208	5.3218	5.6326	7.2099
Indiana	—	5.2568	2.9668	5.0507	4.7599	2.9867	2.9418	4.0565
Iowa	—	.1302	.4755	.5821	.7489	.5484	1.0313	1.1233
Kansas	—	—	—	.0190	.0408	.0311	.1504	.0281
Kentucky	—	7.8589	2.0115	4.3578	3.8142	3.1999	4.9106	3.4308
Louisiana	—	—	.3180	1.4521	.8519	1.3721	1.6694	.8134
Maine	—	.3830	1.5161	.6455	.8968	1.3086	.7097	.6735
Maryland	—	5.6893	3.9936	6.8740	2.4541	2.0847	3.6248	2.4331
Massachusetts	—	21.5319	10.2563	6.7434	6.9750	9.3830	7.0036	6.6400
Michigan	—	—	.2526	2.2185	1.3578	1.5019	1.3112	1.4146
Minnesota	—	—	.0297	.1657	.2882	.1206	.3438	.2706
Mississippi	—	—	—	.1217	.2933	.1248	.3244	.7294
Missouri	—	.6614	.8371	.8120	1.9427	3.0217	2.9002	2.8939
Montana	—	—	—	—	—	.0223	.0017	—
Nebraska	—	—	.1056	.0098	.0016	.0008	.0393	.0010
Nevada	—	—	.1212	—	.0011	—	.0036	.0251
New Hampshire	—	1.2426	1.1627	1.0321	.7614	.7788	.6290	.9378
New Jersey	—	1.4545	3.2871	3.8884	3.7178	3.5998	4.6717	3.4906
New Mexico	—	.0945	.3120	—	—	.0124	.0507	—
New York	—	19.1303	21.9596	19.0952	25.2606	26.7290	23.1889	25.4443
North Carolina	—	—	.0724	.3783	.4882	.9435	.6149	.6633
Ohio	—	12.6746	15.3229	9.4216	10.7293	7.4356	7.6789	6.9605
Oregon	—	—	—	.0135	.0580	.1261	.1020	.3115
Pennsylvania	—	7.1009	20.1102	18.4430	14.9485	14.9166	15.7574	12.9025
Rhode Island	—	1.3418	3.2337	2.1551	.9351	1.2500	1.9186	2.2772
South Carolina	—	—	.0179	.3693	.6061	.6462	.8617	1.0035
Tennessee	—	4.3129	.9783	.7169	1.5190	1.8106	2.3503	3.2553
Texas	—	—	—	.3962	.2577	.2934	.1610	.2921
Utah	—	—	—	—	—	—	—	—
Vermont	—	.2025	1.0179	.5180	.4857	.4730	.5061	.5094
Virginia	—	—	1.5929	3.3227	2.6118	1.7784	1.9040	2.9632
Washington	—	—	—	.0031	—	.0076	—	.0303
West Virginia	—	2.3830	1230	.8941	.7952	1.0383	.6095	.5229
Wisconsin	—	.2598	.3135	.3234	.6903	.5425	.4912	.6020
Wyoming	—	—	—	—	—	—	—	—
Totals	—	100.0000	100.0000	100.0000	100.0000	100.0000	100.0000	100.0000

[1] *Ex. Doc. No. 4*, 3d Sess., 42d Cong., 1872–73, p. 123.

TABLE IX

SHOWING THE RATES OF TAXES LEVIED ON THE GROSS RECEIPTS OF CERTAIN INDUSTRIES UNDER THE SUCCESSIVE ACTS PASSED BY THE FEDERAL GOVERNMENT FROM 1862 TO 1870

Industries taxed	Kind of business	July 1, 1862	March 3, 1863	June 30, 1864	Mar. 5, 1865	July 13, 1866	March 2, 1867	July 14, 1870
Steam railroads and steamboats	Passenger	3%	—	2½%	(a)	2½%	—	Repealed
	Mail	—	—	2½%	(a)	2½%	—	Repealed
	Freight	—	—	2½%	(a)	Repealed	—	—
Canals, ships, barges, canal-boats, stage-coaches	Passenger	—	—	2½%	(a)	2½%	—	Repealed
	Mail	—	—	2½%	(a)	2½%	—	Repealed
	Freight	—	—	2½%	(a)	Repealed	—	—
Ferryboats	Passenger	1½%	Repealed	—	(a)	—	—	—
	Total	—	1½%	3%	(a)	3%	2½%	Repealed
Other railroads	Passenger	1½%	—	2½%	(a)	2½%	—	Repealed
	Mail	—	—	2½%	(a)	2½%	—	Repealed
	Freight	—	—	2½%	(a)	Repealed	—	—
Toll-bridges	Total	3%	—	3%	(a)	3%	2½%	Repealed
Toll-roads	Total	—	—	3%	(a)	3%	Repealed	—
Advertisements	Total	3%	—	3%	—	3%	Repealed	—
Insurance companies	Marine and inland	1%	1%	1½%	—	1½%	—	Repealed
	Fire	—	—	1½%	—	1½%	—	Repealed
	Accident	—	1%	1½%	—	1½%	—	Repealed
Express	Total	—	2%	3%	—	3%	—	Repealed
Lotteries	Total	—	—	5%	—	5%	—	Repealed
Telegraph	Total	—	—	5%	—	3%	—	Repealed
Opera, theaters, circus, museum	Total	—	—	2%	—	2%	—	Repealed
Mine canals	Total	—	—	2½%	—	Repealed	—	—

(a) Common carriers not taxed unless receipts were in excess of $1000.

TABLE X

AMOUNT OF TAX COLLECTED BY THE FEDERAL GOVERNMENT FROM 1863 TO 1871 ON THE GROSS RECEIPTS OF CERTAIN INDUSTRIES[1]

Industries taxed	1863	1864	1865	1866	1867	1868	1869	1870	1871	Total
Advertisements	$40,628.59	$133,315.11	$227,530.21	$290,605.31	$228,009.80	$2,903,78	—	—	—	$982,992.80
Bridges . . .	18,674.31	36,354.52	75,268.95	108,136.34	115,461.20	53,563.30	$51,257.18	$64,416.65	$24,697.35	547,829.80
Canals . . .	—	—	92,421.29	99,267.80	45,282.40	9,985.84	6,494.56	6,857.21	2,278.42	262,587.52
Express companies . . .	2,680.56	267,772.97	529,275.89	645,769.02	558,359.28	671,949.62	579,567.68	459,406.58	168,201.78	3,882,983.38
Ferries . . .	20,851.62	60,074.67	126,132.57	48,763.56	137,239.72	132,652.93	144,978.28	154,501.65	62,368.16	887,563.16
Insurance companies . . .	321,001.69	523,582.42	961,502.99	1,169,722.23	1,326,014.38	1,288,745.79	1,323,330.14	1,324,454.90	445,547.46	8,683,902.00
Lotteries . .	—	—	29,248.96	78,072.48	74,484.05	65,126.54	60,329.23	160,956.93	49,045.21	517,263.40
Railroads . .	1,106,817.02	2,127,249.69	5,917,293.51	7,614,448.13	4,128,255.24	3,134,337.19	3,255,487.20	3,732,209.24	1,637,911.11	32,654,008.33
Ships, barges, etc.	—	—	431,210.58	39,321.79	4,876.54	44,268.26	36,967.43	31,932.33	12,223.85	600,800.78
Stage-coaches, etc.	—	—	469,187.56	572,519.04	241,297.09	186,585.92	183,128.51	159,058.79	76,203.89	1,887,980.80
Steamboats, etc.	150,619.72	278,096.94	638,812.28	84,845.99	91,805.09	263,450.28	222,964.87	283,601.83	128,648 31	2,142,845.31
Telegraph companies . . .	—	—	215,050.62	308,437.52	239,594.93	214,699.18	205,441.00	256,216.39	109,796.59	1,549,236.23
Theaters, operas, circuses, museums . . .	—	—	140,441.71	202,520.61	194,039.28	211,800.71	231,052.74	261,187.49	83,641.31	1,324,683.85
Total . .	$1,661,273.51	$3,426,446.32	$9,853,377.12	$11,262,429.82	$7,444,719.00	$6,280,069.34	$6,300,998.82	$6,894,799.99	$2,800,563.44	$55,924,677.36

[1] *Ex. Doc. No. 4*, 2d Sess., 46th Cong., 1879–80, pp. 163–66.

TABLE XI

SHOWING RATES OF TAXES LEVIED ON CAPITAL, CIRCULATION, AND DEPOSITS OF NATIONAL, SAVINGS, AND OTHER BANKS, BY THE FEDERAL GOVERNMENT, UNDER THE SUCCESSIVE ACTS FROM 1863 TO 1883

Basis of Tax	Feb. 25, 1863	March 3, 1863	June 3, 1864	June 30, 1864	March 3, 1865	July 13, 1866	March 3, 1883
NATIONAL BANKS							
Circulation	Semiannual, 1 per cent	Semiannual, ½ to 1 per cent	Semiannual, ½ per cent	—	—	—	—
Deposits	—	Semiannual, ⅛ per cent	Semiannual, ¼ per cent	—	—	—	Repealed
Capital not in U.S. bonds	—	—	Semiannual, ¼ per cent	—	—	—	Repealed
State bank notes paid out	—	—	—	—	10 per cent	—	—
SAVINGS BANKS							
Deposits not in U.S. bonds	—	—	—	—	Monthly, 1/24 per cent	Repealed	—
Deposits, over $500 for one person, not in U.S. bonds	—	—	—	—	—	Monthly, 1/24 per cent	Repealed
State bank notes paid out	—	—	—	—	10 per cent	—	—
OTHER BANKS							
Circulation	—	Semiannual, ½ to 1 per cent	—	Monthly, 1/12 per cent	—	Monthly, 1/12 per cent	—
Deposits	—	Semiannual, ⅛ per cent	—	Monthly, 1/24 per cent	—	Monthly, 1/24 per cent	Repealed
Capital not in U.S. bonds	—	—	—	Monthly, 1/24 per cent	—	Monthly, 1/24 per cent	Repealed
Issue of fractional currency	—	Semiannual, 5 per cent	—	—	—	—	—
Circulation over 90 per cent of capital	—	—	—	Monthly, ⅛ per cent	—	Monthly, ⅛ per cent	—
State bank notes paid out	—	—	—	—	10 per cent	—	—

TABLE XII

AMOUNT OF TAX COLLECTED BY THE FEDERAL GOVERNMENT FROM 1864 TO 1871 ON THE CAPITAL, CIRCULATION, AND DEPOSITS OF NATIONAL, SAVINGS, AND OTHER BANKS

Basis of tax	1864	1865	1866	1867	1868	1869	1870	1871	Total
STATE AND PRIVATE BANKS [1]									
Deposits	$780,723.52	$2,043,841.08	$2,099,635.83	$1,355,395.98	$1,438,512.77	$1,734,417.63	$2,177,576.46	$2,702,196.84	$14,332,300.11
Capital	—	903,367.98	374,074.11	476,867.73	399,562.90	445,071.49	827,087.21	919,262.77	4,345,294.19
Circulation	2,056,996.30	1,993,661.84	990,225.61	199,410.49	23,661.78	14,110.29	13,615.43	16,800.83	5,308,482.57
Circulation over 90 per cent of capital	—	—	52.50	8,865.58	3,240.21	850.58	1,793.51	5,981.09	20,783.47
Notes of state banks	—	—	—	6,022.68	1,767.89	1,604.18	11.00	—	9,405.75
Total	$2,837,719.82	$4,940,870.90	$3,463,988.05	$2,046,562.46	$1,866,745.55	$2,196,054.17	$3,020,083.61	$3,644,241.53	$24,016,266.09
NATIONAL BANKS									
Deposits	$93,082.21[2]	—[3]	$2,103,797.57[4]	$2,668,674.72[5]	$2,518,780.65[6]	$2,657,235.91[7]	$2,525,571.87[8]	$2,694,480.26[9]	$15,261,623.19
Capital	18,347.73	—	316,916.72	350,545.29	314,899.42	299,126.21	349,147.97	381,598.67	2,030,582.01
Circulation	53,031.27	—	1,371,170.52	2,638,396.35	2,934,685.63	2,955,394.60	2,956,168.02	2,941,381.41	15,850,227.80
Total for 1865	—	—	—	—	—	—	—	—	716,081.15
Total	$164,461.21	$716,081.15	$3,791,884.81	$5,657,616.36	$5,768,365.70	$5,911,756.72	$5,830,887.86	$6,017,460.34	$33,858,514.15
Uncollected from failed banks	—	—	—	—	—	476.08	—	—	476.08
Total	—	—	—	—	—	5,911,280.64	—	—	33,858,038.07
Grand total	$3,002,181.03	$5,656,952.05	$7,255,872.86	$7,704,178.82	$7,635,111.25	$8,107,334.81	$8,850,971.47	$9,661,701.87	$57,874,304.16

[1] *Ex. Doc. No. 4*, 2d Sess., 46th Cong., 1879–80, pp. 151–54.
[2] *Finance Report* (1864), p. 75.
[3] *Ibid* (1865), p. 94. Separate items not given.
[4] *Ibid* (1866), p. 170.
[5] *Ibid* (1867), p. 140.
[6] *Ibid* (1868), p. 223.
[7] *Ibid* (1869), p. 280.
[8] *Ibid* (1870), p. 226.
[9] *Ibid* (1871), p. 296.

TABLE XIII

SHOWING THE RATES OF STAMP TAXES ON LEGAL INSTRUMENTS AND PROPRIETARY ARTICLES, LEVIED BY THE FEDERAL GOVERNMENT, UNDER SUCCESSIVE ACTS FROM 1862 TO 1872

Schedule B

Subject of tax	July 1, 1862	March 3, 1863	June 30, 1864	March 3, 1865	July 13, 1866	March 2, 1867	July 14, 1870	June 6, 1872
Agreements and appraisements	$ .05	—	$ .05	—	—	—	—	Repealed
Bank checks, drafts, etc., over $20	.02	—	Repealed	—	—	—	—	—
Bank checks, drafts, etc., over $10	—	—	.02	—	—	—	—	—
Bills of exchange and letters of credit in sets of three or more — each bill								
for less than $150	.03	—	Repealed	—	—	—	—	—
$150 to $250	.05	—	Repealed	—	—	—	—	—
250 to 500	.10	—	Repealed	—	—	—	—	—
500 to 1000	.15	—	Repealed	—	—	—	—	—
1000 to 1500	.20	—	Repealed	—	—	—	—	—
1500 to 2250	.30	—	Repealed	—	—	—	—	—
2250 to 3500	.50	—	Repealed	—	—	—	—	—
3500 to 5000	.70	—	Repealed	—	—	—	—	—
5000 to 7500	1.00	—	Repealed	—	—	—	—	—
every $2500 over $7500	.30	—	Repealed	—	—	—	—	—
every $100	—	—	.02	—	—	—	(a)	Repealed
Bills of exchange, inland and foreign, not in sets of three; promissory notes								
for $20 to $100	.05	Repealed	—	—	—	—	—	—
100 to 200	.10	Repealed	—	—	—	—	—	—
200 to 350	.15	Repealed	—	—	—	—	—	—
350 to 500	.20	Repealed	—	—	—	—	—	—
500 to 750	.30	Repealed	—	—	—	—	—	—
750 to 1000	.40	Repealed	—	—	—	—	—	—
1000 to 1500	.60	Repealed	—	—	—	—	—	—
1500 to 2500	1.00	Repealed	—	—	—	—	—	—
2500 to 5000	1.50	Repealed	—	—	—	—	—	—
every $2500 over $5000	1.00	Repealed	—	—	—	—	—	—

(a) Bills of exchange and promissory notes for less than $100 exempt by Act of July 14, 1870.

TABLE XIII — SCHEDULE B (*continued*)

Subject of tax	July 1, 1862	March 3, 1863	June 30, 1864	March 3, 1865	July 13, 1866	March 2, 1867	July 14, 1870	June 6, 1872
Bills of exchange, inland, for over $20; promissory notes for over $200 payable on demand at 33 days	—	$ .01	Repealed	—	—	—	—	—
33 to 63 days	—	.02	Repealed	—	—	—	—	—
63 to 93 days	—	.03	Repealed	—	—	—	—	—
93 days to 4 mo.	—	.04	Repealed	—	—	—	—	—
4 mo. to 6 mo.	—	.06	Repealed	—	—	—	—	—
over 6 mo.	—	.10	Repealed	—	—	—	—	—
Bills of exchange, inland, and promissory notes, for each $100	—	—	$ .02	—	—	—	—	Repealed
Bill of lading, foreign	$ .10	—	.10	—	—	—	—	Repealed
Bill of sale of vessels —								
value over $500	—	.25	.50	—	—	—	—	Repealed
$500 to $1000	—	.50	1.00	—	—	—	—	Repealed
every $1000 over $1000	—	.50	Repealed	—	—	—	—	—
every $500 over $1000	—	—	.50	—	—	—	—	Repealed
Bonds —								
for money or performance of duty	.50	—	Repealed	—	—	—	—	—
money, for every $1000	—	—	.50	—	—	—	—	Repealed
performance of duty	—	—	1.00	—	—	—	—	Repealed
other than in legal proceedings	.25	—	.25	—	—	—	—	Repealed
Charter parties —								
Ship not over 150 tons	—	—	1.00	—	—	—	—	Repealed
not over 300 tons	3.00	—	Repealed	—	—	—	—	—
150 to 300 tons	—	—	3.00	—	—	—	—	Repealed
300 to 600 tons	5.00	—	5.00	—	—	—	—	Repealed
over 600 tons	10.00	—	10.00	—	—	—	—	Repealed
Certificate of —								
damage	.25	—	.25	—	—	—	—	Repealed
deposit in bank, not over $100	.02	—	.02	—	—	—	—	Repealed
over $100	.05	—	.05	—	—	—	—	Repealed
profits for sums of $10 to $50	.10	—	.10	—	—	—	—	Repealed

TABLE XIII — SCHEDULE B (*continued*)

Subject of tax	July 1, 1862	March 3, 1863	June 30, 1864	March 3, 1865	July 13, 1866	March 2, 1867	July 14, 1870	June 6, 1872
Certificate of —								
over $50	$ .25	—	Repealed	—	—	—	—	—
$50 to $1000	—	—	$ .25	—	—	—	—	Repealed
every $1000 over $1000	—	—	.25	—	—	—	—	Repealed
stock	.25	—	.25	—	—	—	—	Repealed
any other certificate	.10	$ .05	.05	—	—	—	—	Repealed
Contracts, brokers'	.10	—	.10	—	—	—	—	Repealed
Conveyances —								
value of $100 to $500	.50	—	Repealed	—	—	—	—	—
500 to 1000	1.00	—	1.00	—	—	—	—	Repealed
1,000 to 2,500	2.00	—	Repealed	—	—	—	—	—
2,500 to 5,000	5.00	—	Repealed	—	—	—	—	—
5,000 to 10,000	10.00	—	Repealed	—	—	—	—	—
10,000 to 20,000	20.00	—	Repealed	—	—	—	—	—
every $10,000 over $20,000	20.00	—	Repealed	—	—	—	—	—
any sum up to $500	—	—	.50	—	—	—	—	Repealed
every $500 over $1000	—	—	.50	—	—	—	—	—
Dispatches (telegraphic) —								
costing not over $ .20	.01	—	Repealed	—	—	—	—	—
over $ .20	.02	—	Repealed	—	—	—	—	—
Entry of goods at custom houses —								
value up to $100	.25	—	.25	—	—	—	—	Repealed
$100 to $500	.50	—	.50	—	—	—	—	Repealed
over $500	1.00	—	1.00	—	—	—	—	Repealed
Entry for withdrawal from warehouse	.50	—	.50	—	—	—	—	Repealed
Gaugers returns for quantity —								
up to 500 gallons	—	—	.10	—	Repealed	—	—	—
over 500 gallons	—	—	.25	—	Repealed	—	—	—
Insurance policies —								
Life, amount of policy up to $1000	.25	—	.25	—	—	—	—	Repealed
$1000 to $5000	.50	—	.50	—	—	—	—	Repealed
over $5000	1.00	—	1.00	—	—	—	—	Repealed

TABLE XIII — SCHEDULE B (*continued*)

Subject of tax	July 1, 1862	March 3, 1863	June 30, 1864	March 3, 1865	July 13, 1866	March 2, 1867	July 14, 1870	June 6, 1872
Insurance policies —								
Marine and inland, policy, each	$ .25	—	Repealed	—	—	—	—	—
premium not over $10	—	$ .10	$ .10	—	—	—	—	Repealed
$10 to $50	—	—	.10	—	—	—	—	Repealed
over $50	—	—	.25	—	—	—	—	Repealed
Leases of land or tenements —								
for not over three years	.50	—	Repealed	—	—	—	—	—
for over three years	1.00	—	Repealed	—	—	—	—	—
rental value up to 300	—	—	.50	—	—	—	—	Repealed
every $200 over $300	—	—	.50	—	—	—	—	Repealed
Legal documents —								
writs or other original processes	.50	—	Repealed	—	—	—	—	—
beginning suit in court of record	—	—	.50	—	—	Repealed	—	—
claim of $100, not in court of record	—	—	.50	—	—	Repealed	—	—
upon confession of judgment	—	—	.50	—	—	Repealed	—	—
writ of appeal to court of record	—	—	.50	—	—	Repealed	—	—
warrant of distress, claim —								
not over $100	—	—	.25	—	—	Repealed	—	—
over $100	—	—	.50	—	—	Repealed	—	—
Manifest for entry and clearance —								
ships of not over 300 tons	1.00	—	1.00	—	—	—	—	Repealed
300 to 600 tons	3.00	—	3.00	—	—	—	—	Repealed
over 600 tons	5.00	—	6.00	—	—	—	—	Repealed
Measurer's returns, quantity —								
not over 1000 bu.	—	—	.10	—	Repealed	—	—	—
over 1000 bu.	—	—	.25	—	Repealed	—	—	—
Mortgages or personal loans —								
for $100 to $500	.50	Repealed	—	—	—	—	—	—
500 to 1,000	1.00	Repealed	—	—	—	—	—	—
1,000 to 2,500	2.00	Repealed	—	—	—	—	—	—
2,500 to 5,000	3.00	Repealed	—	—	—	—	—	—
5,000 to 10,000	10.00	Repealed	—	—	—	—	—	—
10,000 to 20,000	15.00	Repealed	—	—	—	—	—	—

TABLE XIII — SCHEDULE B (*continued*)

Subject of tax	July 1, 1862	March 3, 1863	June 30, 1864	March 3, 1865	July 13, 1866	March 2, 1867	July 14, 1870	June 6, 1872
Mortgages or personal loans —								
every $10,000 over $20,000	$10.00	Repealed	—	—	—	—	—	—
Mortgages and personal bonds —								
for every $200 of value	—	$.10	Repealed	—	—	—	—	—
$100 to $500	—	—	$ .50	—	—	—	—	Repealed
500 to 1000	—	—	1.00	—	—	—	—	Repealed
every $500 over $1000	—	—	.50	—	—	—	—	Repealed
assignment of	—	Same as original	Same as original	—	—	—	Repealed	—
Passenger ticket, foreign —								
price not over $30	.50	—	Repealed	—	—	—	—	—
over $30	1.00	—	Repealed	—	—	—	—	—
not over $35	—	—	.50	—	—	—	—	Repealed
every $35 to $50	—	—	1.50	—	—	—	—	Repealed
$50 over $50	—	—	1.00	—	—	—	—	Repealed
Power of attorney —								
for sale of stocks and bonds	.25	(a)	.25	—	—	—	—	Repealed
voting in corporation	.10	—	.10	—	—	—	—	Repealed
to receive or collect interest	.25	—	.25	—	—	—	—	Repealed
sell or rent real estate	1.00	—	1.00	—	—	—	—	Repealed
for any other purpose	—	—	.50	—	—	—	—	Repealed
Probate of will, value of estate —								
not over $2,500	.50	—	Repealed	—	—	—	—	—
$2,500 to $5,000	1.00	—	Repealed	—	—	—	—	—
5,000 to 20,000	2.00	—	Repealed	—	—	—	—	—
20,000 to 50,000	5.00	—	Repealed	—	—	—	—	—
50,000 to 100,000	10.00	—	Repealed	—	—	—	—	—
100,000 to 150,000	20.00	—	Repealed	—	—	—	—	—
every $50,000 over $150,000	10.00	—	Repealed	—	—	—	—	—
not over $2,000	—	—	1.00	—	—	(b)	—	Repealed
every additional $1,000	—	—	.50	—	—	—	—	Repealed

(a) When total sales not over $50, tax was 10 cents.

(b) No stamp required if value of estate below $1000.

TABLE XIII — SCHEDULE B (*continued*)

Subject of tax	July 1, 1862	March 3, 1863	June 30, 1864	March 3, 1865	July 13, 1866	March 2, 1867	July 14, 1870	June 6, 1872
Promissory notes	See Bill of exchange, inland							
Protests	$ .25	—	$ .25	—	—	—	—	Repealed
Receipts —								
express up to $ .25	.01	Repealed	—	—	—	—	—	—
$ .25 to $1.00	.02	Repealed	—	—	—	—	—	—
over $1.00	.05	Repealed	—	—	—	—	—	—
for sums of money over $20	—	—	.02	—	$ .02	—	Repealed	—
for delivery of goods	—	—	.02	(c)	.02	—	—	Repealed
warehouse	.25	—	Repealed	—	—	—	—	—
value of goods up to $500	—	—	.10	—	Repealed	—	—	—
Receipts, warehouse —								
value of goods $500 to $1000	—	—	.20	—	Repealed	—	—	—
each additional $1000	—	—	.10	—	Repealed	—	—	—
other receipts	—	—	.25	—	Repealed	—	—	—
Weigher's returns, amount —								
not over 5000 lbs.	—	—	.10	—	Repealed	—	—	—
over 5000 lbs.	—	—	.25	—	Repealed	—	—	—

(c) Repealed in so far as it applied to express companies.

SCHEDULE C

Cigar lighters —								
box of 100	—	—	.02	—	Repealed	—	—	—
100 to 200	—	—	.04	—	Repealed	—	—	—
each additional 100	—	—	.02	—	Repealed	—	—	—
pack of 25	—	—	—	—	$ .01	—	—	—
25 to 50	—	—	—	—	.02	—	—	—
each additional 25	—	—	—	—	.01	—	—	—

TABLE XIII — SCHEDULE C (*continued*)

Subject of tax	July 1, 1862	March 3, 1863	June 30, 1864	March 3, 1865	July 13, 1866	March 2, 1867	July 14, 1870	June 6, 1872
Proprietary medicines —								
retail at $ .25	$ .01	—	$ .01	—	—	—	—	—
.50	.02	—	.02	—	—	—	—	—
.75	.03	—	.03	—	—	—	—	—
1.00	.04	—	.04	—	—	—	—	—
every $ .50 over $1.00	.02	—	.02	—	—	—	—	—
Perfumery and cosmetics	Same as proprietary medicines							
Photographs —								
value not over $ .25	—	—	.02	Repealed	—	—	—	—
$ .25 to .50	—	—	.03	Repealed	—	—	—	—
.50 to 1.00	—	—	.05	Repealed	—	—	—	—
every $1.00 over $1.00	—	—	.05	Repealed	—	—	—	—
Playing-cards —								
price per pack not over $ .18	.01	—	.02(a)	—	Repealed	—	—	—
Playing-cards —								
price per pack $ .18 to $ .25	.02	—	.04	—	Repealed	—	—	—
.25 to .30	.03	—	Repealed	—	—	—	—	—
.25 to .50	—	—	.10	—	Repealed	—	—	—
.30 to .36	.04	—	Repealed	—	—	—	—	—
over .36	.05	—	Repealed	—	—	—	—	—
.50 to 1.00	—	—	.15	—	Repealed	—	—	—
each $ .50 over $1.00	—	—	.05	—	Repealed	—	—	—
each pack of 52 cards	—	—	—	—	$ .05	—	—	—
Matches per box of 100	—	—	.01	—	—	—	—	—
100 to 200	—	—	.02	—	—	—	—	—
each additional 100	—	—	.01	—	—	—	—	—
Preserved meats and fish —								
2 pound can	—	—	—	—	.01	—	Repealed	—
each additional pound	—	—	—	—	.01	—	Repealed	—
Wax tapers, box of 100	—	—	.02	—	.02	—	—	—
100 to 200	—	—	.04	—	.04	—	—	—
each additional 200	—	—	.02	—	.02	—	—	—

(a) Act of July 1, 1862, put tax on wholesale price; Act of June 30, 1864, on retail price; Act of March 3, 1865, restored it to wholesale price.

TABLE XIV

PENALTIES IMPOSED BY THE FEDERAL GOVERNMENT UNDER SUCCESSIVE ACTS FROM 1862 TO 1866 FOR VIOLATIONS OF THE LAWS LEVYING STAMP TAXES

SCHEDULE B

Offenses	July 1, 1862	March 3, 1863	July 30, 1864	March 3, 1865	July 13, 1866
Failure to use stamp	$50 and paper void	—	$200 and paper void	$50 and paper void	$50, paper void & forfeited
Forging, counterfeiting, or using forged stamps	Forfeit paper, $1000, or 5 years, or both	—	Same as by Act of 1862	—	Same as by Act of 1862
Failure to cancel stamp	$50	—	$50	—	—
Failure to use stamp on promissory note, bill of exchange, or draft	$200	—	$200 and paper void	$50 and paper void	$50, paper void & forfeited
Failure to use stamp, by acceptor of foreign bill of exchange	$100	—	—	—	—
Failure of express company to use stamp	$10	Repealed	—	—	—
Failure of telegraph company to use stamp	$10	—	Repealed	—	—
Removing cancellation from stamp	—	—	Forfeit paper and stamp, $1000 or 5 years, or both	—	Same as by Act of 1864

SCHEDULE C

Failure to use stamp	$10	—	$10	—	$50
Failure to cancel stamp	$10	—	$10	—	—
Attempt to evade tax	$100 and forfeit article	—	$100 and forfeit article	—	—
Forging, counterfeiting, or using forged stamp, etc.	Forfeit stamp and article, $1000 or 5 years, or both	—	Same as by Act of 1862	—	Same as by Act of 1862
Removing stamp and using it on another article	$50 and forfeit article	—	$50 and forfeit article	—	—
Removing cancellation from stamp, or buying or selling cancelled stamps	—	—	Forfeit article and stamp; $1000 or 5 years or both	—	Same as by Act of 1864

TABLE XV

RECEIPTS FROM THE SALE OF ADHESIVE STAMPS FROM 1863 TO 1872, AND THE AMOUNTS ALLOWED AS COMMISSIONS WHEN THE STAMPS WERE PURCHASED IN LARGE QUANTITIES[1]

Year	Receipts	Commission allowed	Total
1863	$4,140,175.29	(a)	$4,140,175.29
1864	5,714,774.88	$180,170.26	5,894,945.14
1865	10,888,727.50	273,664.64	11,162,392.14
1866	14,257,837.14	786,536.04	15,044,373.18
1867	15,239,181.78	855,536.22	16,094,718.00
1868	14,046,613.33	805,638.69	14,852,252.02
1869	15,505,492.58	915,217.43	16,420,710.01
1870	15,611,003.43	933,039.63	16,544,043.06
1871	14,529,885.32	812.854.14	15,342,739.46
1872	15,296,470.77	880,849.83	16,177,320.60
Total	$125,230,162.02	$6,443,506.88	$131,673,668.90

(1) *Ex. Doc. No. 4*, 2d Sess., 46th Cong., 1879–80, pp. 155–57.
(a) Commission included with receipts.

TABLE XVI

SPECIAL OR LICENSE TAXES LEVIED UNDER SUCCESSIVE ACTS BY THE FEDERAL GOVERNMENT, ON TRADES, PROFESSIONS, AND BUSINESS FROM 1862 TO 1870

Trades, professions, and businesses	July 1, 1862	March 3, 1863	June 30, 1864	March 3, 1865	July 13, 1866	March 2, 1867	July 20, 1868	April 10, 1869	July 14, 1870
Apothecaries	$10 [a]	—	$10 [a]	—	$10 [a]	Repealed	—	—	—
sales under $2500	—	—	—	—	—	$10	—	—	Repealed
each $1000 over $2500	—	—	—	—	—	1	—	—	Repealed
Architects and civil engineers	—	$10	10	—	10	—	—	—	Repealed
Assayers, value of metal —									
not over $250,000	—	—	100	—	100	—	—	—	Repealed
$250,000 to $500,000	—	—	200	—	200	—	—	—	Repealed
over $500,000	—	—	500	—	500	—	—	—	Repealed
Auctioneers' sales	20	—	Repealed	—	—	—	—	—	—
not over $10,000	—	—	10	—	10	—	—	—	Repealed
over $10,000	—	—	20	—	20	—	—	—	Repealed
Banks and bankers, capital	100	—	Repealed	—	—	—	—	—	—
not over $50,000	—	—	100	—	100	—	—	—	Repealed
each additional $1000	—	—	2	—	2	—	—	—	Repealed
Billiard-rooms, each table	5	—	10	—	10	—	—	—	Repealed
Bowling-alleys, each alley	5	—	10	—	10	—	—	—	Repealed
Brewers, making —									
not over 500 barrels a year	25	—	25	—	50	—	—	—	—
over 500 barrels a year	50	—	50	—	100	—	—	—	—
Brokers —									
cattle	10	—	Repealed	—	—	—	—	—	—
sales not over $10,000	—	—	10	—	10	—	—	—	Repealed
each additional $1000	—	—	1	—	1	—	—	—	Repealed
commercial	50	—	20	—	20	—	—	—	Repealed
custom-house	—	—	10	—	10	—	—	—	Repealed
insurance	—	—	—	$25	Repealed	—	—	—	—
land warrant	25	—	25	—	25	—	—	—	Repealed

[a] No license required when annual sales did not exceed $1000.

TABLE XVI (*continued*)

Trades, professions, and businesses	July 1, 1862	March 3, 1863	June 30, 1864	March 3, 1865	July 13, 1866	March 2, 1867	July 20, 1868	April 10, 1869	July 14, 1870
Brokers—									
pawn	$50	—	Repealed	—	—	—	—	—	—
capital not over $50,000	—	—	$50	—	$50	—	—	—	Repealed
each additional $1000	—	—	2	—	2	—	—	—	Repealed
produce	—	—	10	—	10	—	—	—	Repealed
stock	50	—	50	—	50	—	—	—	Repealed
substitute	—	—	—	$100	Repealed	—	—	—	—
Builders and contractors	—	$25	Repealed	—	—	—	—	—	—
annual business $2500 to $25,000	—	—	25	—	Repealed	—	—	—	—
each $1000 over $25,000	—	—	1	—	Repealed	—	—	—	—
annual business over $2500	—	—	—	—	10	—	—	—	Repealed
Business, general	—	—	10 *a*	Repealed	—	—	—	—	—
Butchers	—	10 *a*	10 *b*	—	10 *a*	Repealed	—	—	—
selling from cart or wagon	—	5 *a*	5 *c*	—	5 *c*	—	—	—	Repealed
sales not over $25,000	—	—	—	—	—	$10	—	—	Repealed
each additional $1000	—	—	—	—	—	1	—	—	Repealed
Candlemakers, tallow	10	—	Repealed	—	—	—	—	—	—
Circuses	50	—	100	—	100	—	—	—	Repealed
Claim agents	10	—	10	—	10	—	—	—	Repealed
Compounders of liquors	—	—	—	—	—	—	$25	—	—
Confectioners, sales	10 *a*	—	10 *a*	—	10 *a*	Repealed	—	—	—
up to $25,000	—	—	—	—	—	10	—	—	Repealed
each additional $1000	—	—	—	—	—	1	—	—	Repealed
Conveyances	—	—	10	—	10	—	—	—	Repealed
Dealers—									
retail	10 *a*	10 *a*	10 *a*	—	10 *a*	—	—	—	Repealed
liquor	20	20	20	—	25	—	25	$25 *d*	—

a No license required when annual sales did not exceed $1000.

b If annual sales did not exceed $1000, the tax was only $5.

c Venders of fish needed no license if using handcarts. For other conveyances, license was $5.

d If yearly sales including other merchandise exceeded $25,000, for each additional sale of $100 of liquor a tax of $1 was added, and for each additional sale of $1000 of other merchandise a tax of $10 was levied.

TABLE XVI (*continued*)

Trades, professions, and businesses	July 1, 1862	March 3, 1863	June 30, 1864	March 3, 1865	July 13, 1866	March 2, 1867	July 20, 1868	April 10, 1869	July 14, 1870
Dealers —									
wholesale	$50	Repealed	—	—	—	—	—	—	—
yearly sales not over $50,000	—	$25	—	—	—	—	—	—	—
$50,000 to $100,000	—	50	Repealed	—	—	—	—	—	—
100,000 to 250,000	—	100	Repealed	—	—	—	—	—	—
250,000 to 500,000	—	200	Repealed	—	—	—	—	—	—
500,000 to 1,000,000	—	300	Repealed	—	—	—	—	—	—
1,000,000 to 2,000,000	—	500	Repealed	—	—	—	—	—	—
each $1,000,000 over $2,000,000	—	250	Repealed	—	—	—	—	—	—
$1000 over $50,000	—	—	$1	—	$1	—	—	—	Repealed
wholesale liquor	100	Same as wholesale dealers				—	Repealed	$100	—
sales not over $25,000	—	—	—	—	—	—	$100	Repealed	—
each $1000 over $25,000	—	—	—	—	—	—	10	Repealed	—
leaf tobacco, sales not over $10,000	—	—	—	—	—	—	25	—	—
each $1000 over $10,000	—	—	—	—	—	—	2	—	—
manufactured tobacco, sales not over $10,000	—	—	—	—	—	—	25	—	—
each $1000 over $10,000	—	—	—	—	—	—	2	—	—
Dentists	10	—	10	—	10	—	—	—	Repealed
Distillers —									
coal oil	50	—	50	—	50	—	—	—	Repealed
liquor	—	—	—	—	100	—	—	—	—
distilling not over 300 barrels	25	—	25	—	Repealed	—	—	—	—
over 300 barrels	50	—	50	—	Repealed	—	—	—	—
not over 100 barrels	—	—	—	—	—	—	400	—	—
each barrel over 100 barrels	—	—	—	—	—	—	4	—	—
of apples, grapes, or peaches, up to 150 barrels	12.50	—	12.50	—	Repealed	—	50	—	—
not over 50 barrels	—	—	—	—	20	—	Repealed	—	—
50 to 100 barrels	—	—	—	—	50	—	Repealed	—	—
Eating houses	10 [a]	—	10 [a]	—	10 [a]	—	—	—	Repealed
Exhibitions	10	—	10	—	10	—	—	—	Repealed
Express companies	—	—	—	$10 [b]	10 [a]	—	—	—	Repealed

[a] No license required when annual sales did not exceed $1000.

[b] No license required when gross receipts did not exceed $600.

TABLE XVI (*continued*)

Trades, professions, and businesses	July 1, 1862	March 3, 1863	June 30, 1864	March 3, 1865	July 13, 1866	March 2, 1867	July 20, 1868	April 10, 1869	July 14, 1870
Gift enterprises	—	—	$50	—	$150	—	—	—	Repealed
Grinders of coffee and spices	—	—	—	—	100	—	—	—	Repealed
Horse dealers	$10	—	10	—	10	—	—	—	Repealed
Hotels —									
rent not over $100	5	—	Repealed	—	—	—	—	—	—
$100 to $300	10	—	Repealed	—	—	—	—	—	—
300 to 500	15	—	Repealed	—	—	—	—	—	—
500 to 1,000	25	—	Repealed	—	—	—	—	—	—
1,000 to 2,500	50	—	Repealed	—	—	—	—	—	—
2,500 to 5,000	75	—	Repealed	—	—	—	—	—	—
rent 5,000 to 10,000	100	—	Repealed	—	—	—	—	—	—
over $10,000	200	—	Repealed	—	—	—	—	—	—
not over $200	—	—	10	—	10 *a*	—	—	—	Repealed
each $100 over $200	—	—	5	—	5 *a*	—	—	—	Repealed
on steamers	25	—	25	—	25	—	—	—	Repealed
Insurance agents	10	—	10 *b*	(*c*)	10 *d*	—	—	—	Repealed
foreign	—	—	50	—	50	—	—	—	Repealed
Intelligence-office keeper	—	—	10	—	10	—	—	—	Repealed
Juggler	20	—	20	—	20	—	—	—	Repealed
Lawyer	10	—	10	—	10	—	—	—	Repealed
Livery-stable keeper	10	—	10	—	10	—	—	—	Repealed
Lottery-ticket dealer	—	$1000	100	—	100	—	—	—	Repealed
Manufacturers, general	10	—	10	—	10	—	—	—	Repealed
cigars, sales not over $5000	—	—	—	—	—	—	$10	—	—
each $1000 over $5000	—	—	—	—	—	—	2	—	—
stills	—	—	—	—	—	—	50	—	—
tobacco, penal bond not over $5000	—	—	—	—	—	—	10	—	—
each $1000 over $5000	—	—	—	—	—	—	2	—	—
Miners	—	—	—	$10 *a*	10 *a*	—	—	—	Repealed

a No license required where annual receipts did not exceed $1000.
b No license required when receipts did not exceed $300.
c The proviso exempting agents doing less than $300 worth of business stricken out.
d Special tax was only $5 if annual receipts did not exceed $100.

TABLE XVI (*continued*)

Trades, professions, and businesses	July 1, 1862	March 3, 1863	June 30, 1864	March 3, 1865	July 13, 1866	March 2, 1867	July 20, 1868	April 10, 1869	July 14, 1870
Patent agents	$10	—	$10	—	$10	—	—	—	Repealed
Patent right dealers	—	—	10	—	10	—	—	—	Repealed
Peddlers —									
on foot	5	—	10	—	10	—	—	—	Repealed
using one horse	10	—	15	—	15	—	—	—	Repealed
two horses	15	—	25	—	25	—	—	—	Repealed
more than two horses	20	—	50	—	50	—	—	—	Repealed
goods in original packages	50	—	50	—	50	—	—	—	Repealed
jewelry	25	—	50	—	50	—	—	—	Repealed
Photographer —									
receipts not over $500	10	—	10	—	Repealed	—	—	—	—
$500 to $1000	15	—	15	—	Repealed	—	—	—	—
over $1000	25	—	25	—	Repealed	—	—	—	—
Plumbers and gas fitters	—	—	10	—	10	Repealed	—	—	—
business less than $25,000	—	—	—	—	—	$10	—	—	Repealed
for each $1000 over $25,000	—	—	—	—	—	1	—	—	Repealed
Physicians and surgeons	10	—	10	—	10	—	—	—	Repealed
Real estate agents	10	—	10	—	10	—	—	—	Repealed
Rectifiers producing —									
not over 500 barrels	25	—	25	—	25	—	Repealed	—	—
each 500 barrels over 500	25	—	25	—	25	—	Repealed	—	—
not over 200 barrels	—	—	—	—	—	—	$200	—	—
each barrel over 200 barrels	—	—	—	—	—	—	50¢	—	—
Soap makers	10	—	Repealed	—	—	—	—	—	—
Stallion and jack owners	—	$10	10	—	10	—	—	—	Repealed
Theaters and museums	100	—	100	—	100	—	—	—	Repealed
Tobacconists	10[a]	—	10[a]	—	10[a]	—	Repealed	—	—

[a] No license required where annual receipts did not exceed $1000.

TABLE XVIII

RATES OF TAXES LEVIED ON SPIRITS, AND ALSO OF OTHER CHARGES IMPOSED ON LIQUOR MANUFACTURERS AND DEALERS, INCLUDING LICENSE CHARGES, WHICH ACTED AS TAXES ON SPIRITS, LEVIED BY THE FEDERAL GOVERNMENT UNDER SUCCESSIVE ACTS FROM 1862 TO 1869

Subject of tax	July 1, 1862	March 7, 1864	June 30, 1864	Dec. 22, 1864	July 13, 1866	March 2, 1867	July 20, 1868	April 10, 1869
Spirits, per gallon	$ .20	$ .60	Repealed	—	—	—	$ .50	—
till February 1, 1865	—	—	$1.50	Repealed	—	—	—	—
after February 1, 1865	—	—	2.00	Repealed	—	—	—	—
after January 1, 1865	—	—	—	$2.00	—	—	Repealed	—
Brandy, from grapes	—	—	.25 [1]	—	—	$1.00	.50	—
apples and peaches	—	—	1.50	—	—	—	$.50 or exempt [2]	—
Wines, imitating champagne—								
pint bottles, per dozen	—	—	—	—	$3.00	—	3.00	—
quart bottles, per dozen	—	—	—	—	6.00	—	6.00	—
Per diem tax on stills—								
using not over 20 bushels of grain or 60 gallons of molasses	—	—	—	—	—	—	2.00	—
using over 20 bushels or 60 gallons extra	—	—	—	—	—	—	2.00	—
when not in operation	—	—	—	—	—	—	2.00	—
Stamps—								
distillery warehouse	—	—	—	—	—	—	.25	—
rectified spirits	—	—	—	—	—	—	.25	—
Wholesale dealers	—	—	—	—	—	—	.25	—
stock on hand September 20, 1868	—	—	—	—	—	—	.25	—
Inspector	Fees	—	Fees	—	Repealed	—	—	—
for each distillery	—	—	—	—	Salary and fees	Repealed	—	—
assistant inspector	—	—	—	—	Salary	Repealed	—	—
general inspector	—	—	—	—	Fees	—	Repealed	—
Storekeeper	—	—	—	—	Salary	—	Repealed	—
Gauger	—	—	—	—	—	—	Fee	—
Warehouse	Cost	—	Cost	—	—	—	Cost	—
Locks and seals	—	—	—	—	Cost	—	Cost	—
Cisterns	—	—	—	—	Cost	—	Cost	—
Meters	—	—	—	—	—	Cost	Cost	—
Spirits in warehouse April 20, 1869, stilled before July 1, 1868	—	—	—	—	—	—	—	1 cent per month

[1] By Act of March 3, 1865. the tax was raised to $.50.

[2] If the commissioner saw fit he could exempt brandy from grapes or peaches.

TABLE XVII

RECEIPTS BY THE FEDERAL GOVERNMENT FROM SPECIAL OR LICENSE TAXES ON TRADES, PROFESSIONS, AND BUSINESSES, FROM 1863 TO 1871[1]

Subject of tax	1863	1864	1865	1866	1867	1868	1869	1870	1871	Total
Apothecaries	$27,307.82	$29,792.31	$32,872.43	$43,712.86	$55,447.42	$58,377.46	$47,686.10	$82,945.27	$35,405.73	$413,547.40
Architects and civil engineers	1,555.33	9,372.97	10,411.31	12,135.62	15,804.84	15,649.52	14,283.31	16,323.14	9,038.09	104,574.13
Assayer	—	—	10,883.08	12,889.19	12,211.24	13,788.34	12,916.97	9,858.35	6,658.43	79,205.30
Auctioneers	49,091.63	58,147.43	80,545.18	89,724.42	94,084.86	97,448.14	82,622.61	86,774.28	48,246.55	690,685.10
Banks and bankers	90,868.36	74,449.29	846,686.58	1,262,649.05	1,433,715.79	1,490,383.95	1,139,462.35	1,399,827.52	343,775.23	8,081,818.12
Billiard rooms	34,120.43	33,188.52	54,024.64	103,929.48	124,711.49	136,992.52	131,418.20	146,731.00	79,832.28	844,948.56
Boats, barges or floats	—	—	—	—	19,695.11	49,045.37	48,295.68	37,483.04	21,008.62	175,527.82
Bowling alleys	6,873.21	7,781.43	13,489.92	19,749.63	20,353.49	19,603.04	17,890.41	20,236.66	11,158.78	137,136.57
Brewers	70,850.41	66,289.41	77,747.00	105,412.23	238,155.14	270,205.22	233,478.56	237,606.36	229,761.62	1,529,505.95
Brokers —										
cattle	98,090.56	106,337.29	207,905.48	294,447.74	259,223.92	189,922.04	153,940.34	169,078.14	108,645.30	1,587,590.81
commercial	149,868.93	204,098.26	213,094.70	196,345.83	145,376.98	129,647.81	120,565.30	131,126.19	73,822.29	1,363,946.29
custom house	—	—	806.68	1,438.17	1,655.04	1,628.68	899.97	1,497.51	1,207.50	9,133.55
insurance	—	—	145.00	8,014.95	—	—	—	—	—	8,159.95
land warrant	1,058.33	1,000.92	2,326.54	2,238.91	3,024.85	2,463.72	1,193.84	1,171.17	454.80	14,932.88
pawn	9,495.83	10,303.65	13,235.14	22,440.57	23,639.80	23,656.47	26,105.77	30,970.97	15,827.90	175,676.10
produce	(a)	(a)	22,953.86	72,145.13	89,983.45	98,921.04	86,954.84	129,420.73	81,352.55	581,731.60
stock	105,095.77	98,678.05	120,912.05	75,794.02	75,950.90	92,177.67	75,507.05	84,408.82	48,444.45	776,968.81
substitute	—	—	70.83	394.98	—	—	—	—	—	465.81
Builders and contractors	6,615.29	73,383.79	82,273.50	131,177.84	117,531.50	82,234.27	76,110.51	87,884.50	46,211.45	703,422.65
Business, general	—	—	14,489.31	20.90	10.00	—	—	—	—	14,520.21
Butchers	2,154.06	88,450.47	152,420.73	224,465.07	217,394.04	225,076.90	213,895.55	234,960.61	137,166.01	1,495,983.44
Circuses	1,519.17	3,459.16	9,422.57	11,934.84	13,750.89	16,208.44	18,233.28	17,455.58	10,007.21	101,991.14
Claim agents	18,730.61	27,520.65	56,782.29	70,637.39	84,627.49	63,149.99	36,986.45	29,164.75	9,395.32	396,994.94
Confectioners	5,120.86	4,953.47	5,472.48	7,364.72	9,065.87	9,852.11	8,464.28	9,802.72	5,145.81	65,242.32
Conveyancers	—	—	20,807.90	40,715.00	46,685.07	43,549.68	33,359.32	31,894.20	16,916.90	233,928.07
Dealers —										
retail	1,227,912.09	1,336,345.95	1,606,778.53	1,949,017.04	2,047,860.77	2,163,632.00	1,885,099.18	1,984,897.37	891,331.41	15,092,874.34
liquor	1,477,753.54	1,612,736.25	2,205,866.38	2,807,225.59	2,966,683.73	3,242,915.31	3,047,754.35	3,577,874.90	3,651,484.73	24,590,294.78
wholesale	1,315,118.41	1,229,787.01	3,543,104.76	5,428,344.86	3,880,281.13	1,854,387.80	1,405,994.47	1,590,893.64	596,470.70	20,844,382.78
liquor	384,160.07	176,764.76	400,692.91	801,531.32	1,096,850.10	834,037.01	1,676,690.80	2,253,030.25	2,151,281.06	9,775,038.28
leaf tobacco	—	—	—	—	—	—	115,596.53	200,205.54	221,661.98	537,464.05
manufactured tobacco	—	—	—	—	—	—	851,799.94	929,892.64	970,017.96	2,751,710.54
Dentists	28,381.93	27,247.82	34,475.09	47,149.11	59,460.79	63,663.42	55,405.63	56,399.23	27,341.59	399,524.61
Distillers of coal oil	14,455.00	13,657.71	16,024.88	17,350.12	21,809.32	19,629.66	—	5,773.34	3,453.66	112,153.69
liquors	38,632.31	49,022.41	59,897.57	101,534.37	231,777.86	196,057.37	4,030,683.33	6,493,974.15	5,683,077.31	16,884,656.68
Eating houses	27,258.79	29,394.94	36,537.78	50,602.67	53,156.86	54,834.96	48,972.79	61,540.84	36,344.21	398,643.84
Exhibitions not otherwise taxed	4,939.23	7,961.61	10,827.01	15,456.43	13,745.79	12,470.61	13,479.58	13,039.93	8,888.49	100,808.65
Express carriers and agents	—	—	3,169.99	99,098.58	55,726.49	35,318.95	31,011.48	42,656.80	25,088.45	292,070.74
Gift enterprises	—	—	9,682.55	22,694.43	31,124.85	25,514.19	19,248.47	24,107.79	31,780.28	164,152.56
Grinders of coffee and spices	—	—	—	—	27,381.29	29,832.16	29,553.64	33,998.55	15,113.48	135,879.12
Horse dealers	19,446.60	29,038.23	40,160.08	27,565.86	25,635.42	23,203.51	18,456.16	23,958.30	11,791.26	219,255.42
Hotels	255,274.13	252,609.99	415,279.05	580,021.56	663,656.32	656,795.41	577,162.71	631,087.29	353,369.80	4,385,256.26
Insurance agents	1,895.53	8,207.90	21,609.88	104,866.83	148,647.85	152,143.51	145,872.91	176,808.48	82,922.78	842,975.67
Intelligence-office keepers	—	—	2,164.55	2,728,32	3,422.58	3,558.15	3,044.74	3,670.49	2,115.42	20,704.25
Jugglers	738.42	1,102.41	2,166.98	2,744.32	2,802.32	2,668.54	1,488.30	1,908.13	1,252.78	16,872.20
Lawyers	142,900.42	129,186.20	190,377.25	264,836.75	357,648.41	383,030.95	337,818.59	369,824.96	176,881.72	2,352,505.25
Livery-stable keepers	51,619.01	50,996.16	65,210.89	90,179.88	100,855.81	101,760.45	91,786.13	114,643.67	54,273.30	721,325.30
Lottery-ticket dealers	10,250.02	3,091.02	43,479.67	54,426.82	77,686.32	70,009.94	58,240.35	60,506.00	35,580.91	413,271.05
Manufacturers —										
general	465,823.12	473.630.97	637,052.52	1,043,030.78	1,296,487.27	1,427,688.52	1,222,675.81	1,334,889.34	632,377.97	8,533,656.30
cigars	—	—	—	—	—	—	81,022.57	124,606.50	142,192.40	347,821.47
stills	—	—	—	—	—	—	2,716.65	2,388.15	1,927.49	7,032.29
tobacco	7,592.57	9,055.21	13,579.04	16,675.24	59,321.52	86,004.29	32,079.72	28,642.24	20,174.93	273,124.76
Miners	—	—	3,930.00	28,502.83	26,809.66	27,711.55	20,386.76	23,936.72	16,094.67	147,372.19
Patent agents	448.35	1,024.78	2,255.95	3,414.21	4,210.94	4,812.93	3,287.13	4,636.36	1,591.80	25,682.45
Patent-right dealers	—	—	6,260.28	33,011.08	59,951.50	73,483.14	52,346.05	46,294.73	25,226.94	296,573.72
Peddlers	287,455.75	264,111.54	459,298.60	679,013.63	708,113.28	724,210.29	626,476.43	664,043.38	349,917.05	4,762,639.95
Photographers	44,858.85	52,535.59	74,608.02	93,185.91	79,170.29	53,102.28	45,238.33	48,236.86	24,767.54	515,703.67
Plumbers and gas fitters	(a)	(a)	2,395.78	10,422.22	12,856.07	16,437.16	16,032.24	18,936.74	9,674.21	86,754.42
Physicians and surgeons	239,535.29	235,582.73	302,847.30	425,596.66	549,368.64	580,566.31	489,410.26	518,471.13	257,141.18	3,598.519.50
Real estate agents	(a)	(a)	12,702.21	43,731.75	52,910.25	54,305.46	52,159.95	54,820.93	30,545.91	301,176.46
Rectifiers and compounders	45,993.79	58,828.28	48,781.52	61,300.91	80,470.06	87,770.28	655,133.19	1,054,241.64	959,800.18	3,052,319.85
Stallions and jacks	45,985.25	219,578.01	277,166.27	306,853.55	381,032.16	395,123.95	325,602.85	326,758.19	172,100.74	2,450,200.97
Theaters, museums, etc.	7,333.35	9,500.71	15,316.18	16,205.54	18,146.83	19,876.13	17,874.45	25,033.41	19,293.43	148,580.03
Total	$6,824,178.42	$7,178,205.26	$12,613,478.67	$18,038,097.71	$18,301,161.66	$16,606,538.57	$20,667,872.66	$25,923,250.15	$19,033,832.51	$145,186,615.61

[1] Compiled from various reports of the Internal Revenue Commissioners.

(a) Taxed in 1863 and 1864 but was reported under more general heads.

TABLE XVIII (*continued*)

Subject of tax	July 1, 1862	March 3, 1863	June 30, 1864	July 13, 1866	June 20, 1868	April 10, 1869
Licenses—						
compounders	—	—	—	—	$25	—
dealers, retail	$20	$20	$20	$25	25	$25[1]
wholesale	100	Repealed	—	—	—	100
yearly sales not over $50,000	—	25	50	50	Repealed	—
$50,000 to $100,000	—	50	Repealed	—	—	—
100,000 to 250,000	—	100	Repealed	—	—	—
250,000 to 500,000	—	200	Repealed	—	—	—
500,000 to 1,000,000	—	300	Repealed	—	—	—
1,000,000 to 2,000,000	—	500	Repealed	—	—	—
each $1,000,000 over $2,000,000	—	250	Repealed	—	—	—
$1000 over $50,000	—	—	1	1	Repealed	—
not over $25,000	—	—	—	—	100	Repealed
each additional $1000	—	—	—	—	10	Repealed
distillers—						
distilling not over 300 barrels	25	—	25	Repealed	—	—
over 300 barrels	50	—	50	Repealed	—	—
not over 100 barrels	—	—	—	—	400	—
each additional barrel	—	—	—	—	4	—
of grapes, apples, or peaches, up to 150 barrels	12.50	—	12.50	Repealed	—	50
not over 50 barrels	—	—	—	20	—	Repealed
over 50 barrels	—	—	—	50	—	Repealed
manufacturers of stills	—	—	—	—	50	—
rectifiers—						
rectifying not over 500 barrels	25	—	25	25	Repealed	—
each additional 500 barrels	25	—	25	25	Repealed	—
not over 200 barrels	—	—	—	—	200	—
each additional barrel	—	—	—	—	.50	—

[1] If sales, including other merchandise, exceeded $25,000, an additional tax of $1.00 for each $100 from sale of liquors and $10 from each $1000 of sale of other merchandise was levied.

TABLE XIX

LIST OF PENALTIES FOR VIOLATIONS OF FEDERAL LAWS LEVYING TAXES ON DISTILLED SPIRITS PROVIDED BY SUCCESSIVE ACTS FROM 1862 TO 1868

Offenses	July 1, 1862	June 30, 1864	March 3, 1865	July 13, 1866	March 2, 1867	July 20, 1868
Attempt to evade tax by changing brand	$500 per cask	$100 per cask	$300 per cask	—	—	$200 per cask
on conviction	—	—	—	—	—	$100 to $1000 and 1 month to 1 year
Using branded cask for different quality of spirits	500 per cask	100 per cask	300 per cask	$100 per cask or 6 months	—	$200 per cask
on conviction	—	—	—	—	—	$100 to $1000 and 1 month to 1 year
Neglect to make proper entries and reports	Forfeit still, spirits and $500	—	—	$500	Forfeit still, apparatus and material, $500 and 1 year	$1000
False statement in application for bond	—	100	300	$300	—	— —
Obstructing or hindering a revenue officer	—	100	500	—	—	$1000
Refusal to furnish accounts and permit inspection of books	—	300	—	—	—	—
Distilling without paying special tax	—	—	—	Double tax, forfeit spirits, material, and apparatus	—	Forfeit real and personal property, spirits, material, apparatus, $1000 to $5000, and 6 mos. to 2 years
Rectifying without paying special tax	—	—	—	Double special tax, forfeit spirits, material, and apparatus	—	Same as for distiller
Failure to give bond	—	—	—	$300	—	Forfeit spirits and material, real and personal property, $1000 to $5000, and 6 mos. to 2 years

TABLE XIX (*continued*)

Offenses	July 1, 1862	June 30, 1864	March 3, 1865	July 13, 1866	March 2, 1867	July 20, 1868
Operating still in building where is a brewery, retailed liquors or sugar refinery	—	—	—	Forfeit still and spirits, $1000 and 1 year	—	$1000 and 6 months to 2 years
Using still in dwelling, on vessel, or within 600 feet of refinery	—	—	—	—	—	$1000 and 6 months to 2 years
Setting up still without permit of collector	—	—	—	Forfeit still and $500	—	—
Wholesaler or rectifier failure to keep proper records	—	—	—	Forfeit spirits, apparatus, $500 and 6 mos. to 1 year	—	—
Distiller removing spirits when inspector is absent	—	—	—	Double tax and $1000	—	—
Removing or shipping spirits under wrong brand	—	—	—	Forfeiture of spirits and $500	—	—
False or fraudulent accounts	—	—	—	$500 or 6 months	—	Forfeit distillery and costs
on conviction	—	—	—	—	—	$500 to $5000 and 6 months to 2 years
False weights or measures, false records	—	—	—	$1000 and 2 years	—	$500 to $5000 and 1 to 3 years
Tampering with locks or seals of Government	—	—	—	$1000 and 2 years	—	$500 to $5000 and 1 to 3 years
Using molasses or beer for distilling before proper account is made	—	—	—	$1000	—	$1000
Selling wine without paying tax	—	—	—	1 year or $1000	—	—
Failure to give assistance to inspecting officers	—	—	—	$200		$500
Putting spirits of greater strength in marked cask	—	—	—	Double tax and $500 per cask	—	$200
on conviction	—	—	—	—	—	$100 to $1000 and 1 month to 1 year
Failure to remove brand when empty	—	—	—	$200 per cask	$10 per cask and forfeit cask	—
Buying or selling marked casks	—	—	—	$200 per cask	$10 per cask and forfeit cask	—

TABLE XIX (*continued*)

Offenses	July 1, 1862	June 30, 1864	March 3, 1865	July 13, 1866	March 2, 1867	July 20, 1868
Fraudulent use of inspectors' stamp or using counterfeit stamp . .	—	—	—	Forfeit spirits, $1000 and 2 to 5 years	—	—
Adding ingredients to create fictitious proof, before inspection	—	—	—	$1000 per cask and 1 to 2 years	—	$100 to $1000 and 3 mos. to 2 yrs.
Making false documents to evade tax and connive at same . . .	—	—	—	Forfeit spirits, 1 to 5 years	—	—
Refusal to notify collector to gauge spirits on hand Sept. 1, 1866 .	—	—	—	$500	—	—
Branding spirits when tax is not paid	—	—	—	Forfeit spirits and 2 years	—	—
Removing spirits other than to bonded warehouse	—	—	—	Forfeit spirits, double tax or 3 months	—	—
Aiding unlawful removal of spirits from distillery	—	—	—	$200 to $1000 and 3 to 12 months	—	Double tax
on conviction	—	—	—	—	—	$200 to $5000, and 3 months to 3 years
Aiding unlawful removal of spirits from warehouse	—	—	—	$1000 and 3 to 12 months	—	Double tax
on conviction	—	—	—	—	—	$200 to $5000, and 3 months to 3 years
Making or selling any fluid marked grape brandy, falsely	—	—	—	—	Forfeit liquor, $1000 or 1 year or both	—
Removing spirits from warehouse at night or in casks of over 10 gals.	—	—	—	—	Forfeit spirits, and $100 per cask	Forfeit spirit and conveyance and $100 per cask
Falsely impersonating a revenue officer	—	—	—	—	$500 and 6 months to 2 years	—
Distiller to defraud government of tax	—	—	—	—	Forfeit distillery, spirits and material, $500 to $5000, 6 months to 3 years.	—

TABLE XIX (*continued*)

Offenses	July 1, 1862	June 30, 1864	March 3, 1865	July 13, 1866	March 2, 1867	July 20, 1868
Distilling outside of distillery, removing mash, etc., using spirits made otherwise than by law	—	—	—	—	—	$500 to $5000, 6 months to 2 years
Having still not registered	—	—	—	—	—	Forfeit still and personal property in building and $500.
on conviction	—	—	—	—	—	$100 to $1000 and 1 month to 2 years
Failure to give assessor name, place, etc.	—	—	—	—	—	$1000
on conviction	—	—	—	—	—	$100 to $2000
Fraudulent notice of name, place, etc.	—	—	—	—	—	$1000
on conviction	—	—	—	—	—	$100 to $2000 and 6 months to 2 years
Failure to give bond, or giving forged or fraudulent bond	—	—	—	—	—	Forfeit distillery, apparatus and real estate
on conviction	—	—	—	—	—	$500 to $5000 and 6 months to 2 years
Removing still without giving notice or getting permit	—	—	—	—	—	Forfeit apparatus and $500
Failure to keep pipes separated properly	—	—	—	—	—	$1000
Having no sign; fence over 5 feet high; not furnishing key to officer	—	—	—	—	—	$500
Putting up sign without paying special tax	—	—	—	—	—	$1000
on conviction	—	—	—	—	—	1 month to 6 months
Working in, or conveying spirits or material to or from place without sign	—	—	—	—	—	Forfeit horses, wagon, etc.
on conviction	—	—	—	—	—	$100 to $1000, 1 mo. to 6 mo.
Using material or removing spirits in absence of storekeeper	—	—	—	—	—	$1000

TABLE XIX (*continued*)

Offenses	July 1, 1862	June 30, 1864	March 3, 1865	July 13, 1866	March 2, 1867	July 20, 1868
Doing business after notice to suspend	—	—	—	—	—	$1000
on conviction	—	—	—	—	—	1 to 6 months
Tampering with locks or seals on furnace, opening sealed tubes	—	—	—	—	—	$1000 to $5000, 1 year to 3 years
Failure to draw water from warm tube on notice	—	—	—	—	—	$1000
Refusal to admit officer	—	—	—	—	—	$1000
Operating still on Sunday	—	—	—	—	—	$1000
Transporting casks with undestroyed stamps	—	—	—	—	—	$300 and forfeit conveyance
Failure to destroy stamps; removing stamps, or having removed stamps	—	—	—	—	—	$500 to $10,000 and 1 to 5 years
Manufacture of stills without paying special tax	—	—	—	—	—	Forfeit spirits, material, real and personal property; $1000 to $5000, and 6 months to 2 years
Maker of wine, failure to make returns; fraudulent claim for drawback	—	—	—	—	—	50% added to tax; 3 times amount of claim
on conviction	—	—	—	—	—	1 year to 10 years
Owner of vessel aiding false claim	—	—	—	—	—	Forfeit vessel, $5000 and 1 year
Failure to report for gauging spirits on hand	—	—	—	—	—	Forfeit spirits
Gauging spirits illegally	—	—	—	—	—	$500 to $5000, 6 months to 3 years
Rectifier or wholesaler failure to keep books	—	—	—	—	—	$100
on conviction	—	—	—	—	—	$100 to $5000 and 3 months to 3 years
Failure to pay duty when report is made	10% of tax	—	10% of tax	—	—	—

TABLE XIX (*continued*)

Offenses	July 1, 1862	June 30, 1864	March 3, 1865	July 13, 1866	March 2, 1867	July 20, 1868
ON OFFICERS						
Inspector making fraudulent brands, per cask	$500	$100	$300	—	—	—
Inspector helping fraud	—	—	—	$1000 to $5000 and 2 to 5 years	—	—
Inspector neglect or improper use of brands	—	—	—	$1000	—	—
Inspector employing distiller or servant to use brand	—	—	—	$1000	—	—
Officer becoming interested in manufacture of spirits	—	—	—	$500 to $5000	—	—
Officer asking or receiving bribe	—	—	—	—	Double bribe; 1 to 10 years	—
Collecting or assessing special tax before bond is given	—	—	—	—	—	$500
Assessor approving bond when all requirements not filed	—	—	—	—	—	$2000 and dismissed
Affixing or canceling stamps, except as by law	—	—	—	—	—	$500 to $3000 and 6 months to 3 years
Storekeeper allowing removal without permit of collector	—	—	—	—	—	$500 to $2000 and 3 months to 2 years
Gauger for false gauging	—	—	—	—	—	$1000
on conviction	—	—	—	—	—	$500 to $5000 and 3 months to 3 years

Act of March 7, 1864, Having spirits for fraudulent sale, — forfeit spirits, material, tools and $500.
Act of March 31, 1868, Distiller for defrauding or attempting to defraud Government, — forfeit spirits, material, distillery and apparatus. On conviction, — $500 to $5000 and six months to three years.
Act of March 31, 1868, Revenue officer neglect of duty, conspiracy, false certificate or failure to report fraud, — $1000 to $5000 and six months to three years.

TABLE XX

RECEIPTS BY THE FEDERAL GOVERNMENT FROM TAXES ON THE PRODUCTION AND SALE OF SPIRITS, INCLUDING RECEIPTS FROM SPECIAL OR LICENSE TAXES ON PRODUCERS OF AND DEALERS IN SPIRITS, FROM 1863 TO 1871[1]

Subject of tax	1863	1864	1865	1866	1867	1868	1869	1870	1871	Total
Spirits from apples, peaches, and grapes	—	—	$12,005.33	$283,499.84	$868,145.03	$871,638.24	$510,111.57	$611,914.91	$1,236,005.67	$4,393,320.59
Spirits from other materials	$3,229,990 79	$28,431,797.83	15,995,701.66	29,198,578.15	28,296,264 31	13,419,092.74	33,225,212.11	38,633,184.13	29,921,308.48	220,351,130.20
Wines in imitation of champagne	—	—	8,477.08	14,501.64	2,760.63	4,119.95	565.60	11.50	—	30,436.40
Distillers, per diem tax	—	—	—	—	—	—	1,319,911.89	2,127,506.30	1,901,602.98	5,349,021.17
Still and worm, manufacture	—	—	—	—	—	—	7,760.00	5,260.00	3,240.00	16,260.00
Stamps—										
Distillers' warehouse	—	—	—	—	—	—	192,229.00	305,509.75	249,699.00	747,437.75
For rectified spirits	—	—	—	—	—	—	143,085.50	375,274.25	374,723.00	893,082.75
Wholesale dealers	—	—	—	—	—	—	149,206.75	141,429.25	134,005.00	424,641.00
Stock on hand	—	—	—	—	—	—	65,341.00	—	—	65,341.00
Gaugers' fees in excess of $250 a mo.	—	—	—	—	—	—	44,829 12	24,494 97	13,693.20	83,017.29
Special taxes—										
Distillers	38,632.31	49,022.41	59,897.57	101,534.37	231,777.86	196,057.37	4,030,683.33	6,493,974.15	5,683,077.31	16,884,656 68
Rectifiers and compounders	45,993 79	58,828.28	48,781.52	61,300.91	80,470.06	87,770.28	655,133.19	1,054,241.64	959,800.18	3,052,319 85
Retail dealers	1,477,753.54	1,612,736 25	2,205,866.38	2,807,225.59	2,966,683 73	3,242,915.31	3,047,754.35	3,577,874 90	3,651,484.73	24,590,294.78
Wholesale dealers	384,160.07	176,764.76	400,692 91	801,531.32	1,096,850.10	834,037.01	1,676,690.80	2,253,030.25	2,151,281.06	9,775,038 28
Manufacturer of stills	—	—	—	—	—	—	2,716.65	2,388.15	1,927.49	7,032.29
Total	$5,176,530.50	$30,329,149.53	$18,731,422.45	$33,268,171.82	$33,542,951.72	$18,655,630.90	$45,071,230.86	$55,606,094.15	$46,281,848.10	$286,663,030.03

[1] *Ex. Doc., No. 4*, 2d Sess., 46th Cong., 1879–80, pp. 151–54.

TABLE XXI

PENALTIES PROVIDED BY SUCCESSIVE ACTS FROM 1862 TO 1868 FOR VIOLATIONS OF THE FEDERAL LAWS LEVYING TAXES ON FERMENTED LIQUORS

Offenses	July 1, 1862	June 30, 1864	March 3, 1865	July 13, 1866	July 20, 1868
Neglect to make true entry and report	Forfeit apparatus and liquor, $500 and costs	Same as by Act of 1862	Forfeit apparatus and liquor; $500 and costs and 1 yr.	Forfeit apparatus and liquor; $500 to $1000 and 1 yr.	—
Refusal to furnish accounts or permit book to be examined	—	$300	—	$300	—
False returns	—	—	—	Forfeit apparatus and liquor; $500 to $1000 and 1 yr.	—
Failure to affix or cancel stamp, per barrel	—	—	—	$100 and 1 year	—
Selling or buying liquor without stamp or with fraudulent stamp	—	—	—	$100 and 1 year	—
Failure to destroy stamp when liquor is removed	—	—	—	$100 and 1 year	—
Selling from unstamped barrel	—	—	—	$100 and 1 year	—
Making, selling, or using fraudulent stamps or dies	—	—	—	1 to 5 years	—
Bottling from unstamped cask or at brewery	—	—	—	Forfeit apparatus and $500	—
Defacing mark on cask showing when and where made, per cask	—	—	—	$50	—
Officer becoming interested in manufacture of liquor	—	—	—	$500 to $5000	—
Operating brewery from Saturday 11 P.M. to Monday 1 A.M.	—	—	—	—	$1000

TABLE XXII

RECEIPTS BY THE FEDERAL GOVERNMENT FROM TAXES ON THE PRODUCTION OF FERMENTED LIQUORS, INCLUDING RECEIPTS FROM LICENSE OR SPECIAL TAXES ON BREWERS FROM 1863 TO 1871[1]

Subject of tax	1863	1864	1865	1866	1867
Fermented liquors	$1,558,083.41	$2,223,719.73	$3,657,181.06	$5,115,140.49	$5,819,345.49
Special tax, brewers	70,850.41	66,289.41	77,747.00	105,412.23	238,155.14
Total	$1,628,933.82	$2,290,009.14	$3,734,928.06	$5,220,552.72	$6,057,500.63

Subject of tax	1868	1869	1870	1871	Total
Fermented liquors	$5,685,663.70	$5,866,400.98	$6,081,520.54	$7,159,740.20	$43,166,795.60
Special tax, brewers	270,205.22	233,478.56	237,606.36	229,761.62	1,529,505.95
Total	$5,955,868.92	$6,099,879.54	$6,319,126.90	$7,389,501.82	$44,696,301.55

[1] *Ex. Doc. No. 4*, 2d Sess., 46th Cong., 1879–80, pp. 151–154.

TABLE XXIII

RATES OF TAXES LEVIED BY THE FEDERAL GOVERNMENT ON THE PRODUCTION OF TOBACCO AND CIGARS, UNDER SUCCESSIVE ACTS FROM 1862 TO 1868

Articles taxed	July 1, 1862	March 3, 1863	June 30, 1864	March 3, 1865	July 13, 1866	March 3, 1867	July 20, 1868
Tobacco, per pound —							
chewing, value not over $.30	$.10	$.15	Repealed	—	—	—	—
over $.30	.15			—	—	—	—
plug	—	—	$.35	$.40	$.40	—	$ .32
fine cut	—	—	.35	.40	.40	—	.32
hand twisted	—	—	—	.30	.30	—	.32
smoking, with stems	.05	.05	.25	.35	Repealed	—	—
exclusively of stems	.02		.15	.15	Repealed	—	—
sweetened and stemmed	—	—	—	—	$.40	—	.16
not sweetened and stemmed	—	—	—	—	.15	—	—
snuff	.20	.20	.35	.40	.40	—	.32
Cigars, per 1000	—	—	—	10.00	Repealed	$5.00	5.00
value not over $5 per 1000	1.50	—	Repealed	—	—	—	—
$ 5 to $10 per 1000	2.00	—	Repealed	—	—	—	—
10 to 20 per 1000	2.50	—	Repealed	—	—	—	—
over 20 per 1000	3.50	—	Repealed	—	—	—	—
5 to 15 per 1000	—	—	$ 8.00	Repealed	—	—	—
15 to 30 per 1000	—	—	15.00	Repealed	—	—	—
30 to 45 per 1000	—	—	25.00	Repealed	—	—	—
over 45 per 1000	—	—	40.00	Repealed	—	—	—
not over $8 per 1000	—	—	—	—	$2.00	Repealed	—
$8 to $12 per 1000	—	—	—	—	4.00	Repealed	—
over $12 per 1000	—	—	—	—	$4.00 and 20% ad valorem	Repealed	—
Cheroots, per 1000	—	—	3.00	$10.00	Same as cigars	$5.00	5.00
Cigarettes, paper wrapped —							
value per 100 pkgs., not over $5	—	—	$1.00 per 100 pkgs.	5¢ per pkg.	Same as cigars	Same as cigars	Repealed
over $5	—	—	Same as cigars	—			
made wholly of tobacco	—	—	$3.00	Repealed			
weighing over 3 pounds to the 1000, per 1000	—	—	—	—	—	—	$5.00
less than 3 pounds	—	—	—	—	—	—	1.50

TABLE XXIV

RECEIPTS BY THE FEDERAL GOVERNMENT FROM TAXES ON MANUFACTURED ARTICLES FROM 1863 TO 1868[1]

Articles taxed	1863	1864	1865	1866	1867	1868	Total
Agricultural implements[2]	—	—	—	—	$182,649.67	$77,544.92	$260,194.59
Barytes, sulphate of	$9,873.43	$20,713.04	$20,388 62	$35,581.80	—	—	86,556.89
Billheads, cards, etc.	—	—	193,136.94	412,600.01	—	—	605,736.95
Blinds, doors, etc.[2]	—	—	—	—	317,228.50	69,576.68	386,805.18
Boilers, water tanks[2]	—	—	—	—	164,209.57	122,769.62	286,979.19
Books, magazines, etc.	—	—	354,527.95	723,648.14	—	—	1,078,176.09
Boots and shoes[2]	—	—	3,280,627.29	6,516,814.02	2,943,419.72	1,946,962.93	14,687,823.96
Brass, rolled	8,402.53	76,874.28	469,280.55	405,172.03	—	—	959,729.39
Bricks, draining tile	—	—	188,543.82	390,798.49	—	—	579,342.31
Brushes[2]	—	—	—	—	130,677.48	106,181.05	236,858.53
Bullion	—	—	379,517.85	488,337.25	441,339.50	323,601.62	1,632,796.22
Candles	117,133.25	186,228.45	326,583.08	392,821.78	290,502.31	236,659.13	1,549,928.00
Carpentering[2]	—	—	—	—	477,119.67	259,405.45	736,525.12
Carriages[2]	—	—	880,021.36	1,576,661.80	1,116.370.85	559,214.23	4,132,268.24
Cars[2]	—	—	—	—	490,391.09	485,581.65	975,972.74
Chemical productions[2]	—	—	317,382.60	534,779.51	279,892.05	183,640.07	1,315,694.23
Chocolate and cocoa	6,409.19	16,950.46	17,980.46	36,466.93	34,453.45	24,066.67	136,327.16
Clocks and clock movements	17,771.40	39,165.88	93,837.85	153,696.63	80,962.56	71,835.24	457,269.56
Cloth and other fabrics of cotton	1,600,947.39	3,548,176.51	6,747,923.18	11,465,963.73	8,921,730.29	6,321,545.63	38,606,286.73
wool	1,831,898.54	3,588,056.70	7,947,094.21	8,814,101.03	4,928,305.76	2,812,977.40	29,922,433.64
wool, cotton, and other material	11,255.99	20,006.59	376,672.43	595,727.60	1,517,682.65	123,152.19	2,644,497.45
printed, enameled, etc.[2]	—	—	150,286.20	312,923.94	289,719.38	213,721.92	966,651.44
Clothing[2]	110,093.22	464,313.54	7,073,676.21	12,434,129.20	4,513,995.37	826,537.38	25,422,744.92
Coal	318,424.77	572,436.54	835,993.91	1,240,106.23	—	—	2,966,961.45
Coffee	58,846.01	80,198.81	284,069.96	221,588.22	272,664.74	251,833.36	1,169,201.10
Confectionery	153,825.30	465,793.15	569,473.50	995,794.62	764,824.57	592,062.10	3,541,773.24
Copper and lead in ingots	—	—	277,172.25	318,801.12	—	—	595,973.37
Copper, zinc, and brass tubes[2]	—	—	—	—	138,810.85	96,582.90	235,393.75
Cotton, raw	351,311.48	1,268,412.56	1,772,983.48	18,409,654.90	23,769,078.80	22,500,947.77	68,072,388.99
Cutlery[2]	—	—	84,187.60	150,761.67	158,848.65	108,335.75	502,133.67
Diamonds	65,948.43	183,746.62	486,339.87	505,357.37	375,652.24	337,585.86	1,954,630.39
Fire arms[2]	—	—	—	—	84,930.50	92,803.57	177,734.07
Furniture[3]	832,141.20	1,679,940.25	2,733,247.93	4,540,140.42	1,833,251.58	1,010,468.58	12,629,189.96

[1] Compiled from *Ex. Doc. No. 4*, 2d Sess., 46th Cong., 1879–80, pp. 155–66 and 171–74.
[2] Reported in 1863 and 1864 under more general heads.
[3] Including manufactures of wood, 1863–65.

TABLE XXIV (*continued*)

Articles taxed	1863	1864	1865	1866	1867	1868	Total
Gas	$435,600.44	$714,740.13	$1,348,324.58	$1,842,642.64	$1,834,675.60	$1,902,081.52	$8,078,064.91
Gas fixtures [1]	—	—	—	—	125,216.98	96,906.82	222,123.80
Glass	138,908.16	303,268.09	585,429.67	922,318.35	479,101.49	242,911.84	2,671,937.60
Glue, liquid	264.88	1,541.38	1,187.86	382.26	765.22	—	4,141.60
solid	9,298.94	24,632.05	44,517.40	77,764.97	54,653.71	—	210,867.07
Gold-foil [1]	—	—	10,010.77	17,255.95	—	—	27,266.72
Gold-leaf	1,785.46	9,073.48	11,568.39	16,628.94	—	—	39,056.27
Gunpowder	78,696.26	155,302.07	248,376.42	250,668.70	180,933.81	131,417.77	1,045,395.03
Gutta-percha	5,087.44	5,435.06	31,282.38	7,937.88	5,146.31	2,683.81	57,572.88
India-rubber	112,700.15	223,782.85	635,975.87	555,842.30	391,003.06	249,772.46	2,169,076.69
Iron, advanced beyond musk-bars	180,549.18	268,945.50	457,622.35	665,102.11	526,343.88	—	2,098,563.02
bands, not thinner than No. 18 wire gauge	46,690.85	116,506.20	229,178.86	435,171.91	341,024.75	—	1,168,572.57
thinner than No. 18	19,925.54	39,472.11	89,963.11	131,688.65	91,509.37	—	372,558.78
bands and hoops, $3.00 per ton	—	—	—	—	21,809.71	—	21,809.71
bars	11,370.47	10,986.77	30,474.65	55,387.90	—	—	108,219.79
blooms	—	—	52,158.55	52,258.38	—	—	104,416.93
castings	50,348.75	242,737.35	798,201.59	1,367,825.09	1,061,414.03	713,851.13	4,234,377.94
cutnails and spikes	110,904.63	184,500.02	328,940.20	725,145.78	741,264.87	677,623.21	2,768,378.71
pig	—	—	1,484,382.82	2,255,892.74	—	—	3,740,275.56
plate, not less than ⅛ inch thick	47,205.77	79,487.04	120,871.78	167,566.93	116,899.98	—	532,031.50
less than ⅛ inch	5,015.43	7,048.01	29,420.25	67,348.63	34,093.18	—	142,924.50
railings [1]	—	—	—	—	28,609.70	29,170.50	57,780.20
railroad	78,749.78	175,838.25	284,783.48	399,668.62	—	—	939,040.13
rerolled	66,335.98	119,225.79	376,264.47	668,988.37	—	—	1,230,814.61
rivets, nuts, washers, bolts	6,812.31	43,729.49	56,497.71	101,401.03	—	—	208,440.54
stoves and hollow-ware	79,952.25	123,488.86	211,848.65	297,631.72	304,474.94	213,053.22	1,230,449.64
advanced beyond pig	—	—	215,375.82	67,875.95	—	—	283,251.77
tubes, wrought railroad chairs	—	—	5,694.42	103,576.60	101,554.02	89,170.16	299,995.20
manufactures of, not enumerated	969,082.10	1,891,061.71	3,723,310.24	5,238,728.98	2,454,600.06	951,496.71	15,228,279.80
Lamps and lanterns, other than magnesium	—	—	—	—	32,277.76	44,798.96	77,076.72
Lead, sheet, lead-pipe, shot [1]	—	—	125,006.33	227,616.10	165,436.85	173,823.53	691,882.81
white	23,080.17	48,563.88	52,067.26	102,413.23	—	—	226,124.54
Leather, curried or finished [1]	—	—	1,861,367.80	2,861,808.17	2,309,119.37	1,055,203.70	8,087,499.02
tanned in the rough [1]	—	—	825,412.20	1,176,493.09	932,545.14	459,854.99	3,394,305.42

[1] Reported in 1863 and 1864 under more general heads.

TABLE XXIV (*continued*)

Articles taxed	1863	1864	1865	1866	1867	1868	Total
Leather, patented and enameled [1]	—	—	—	—	$203,502.39	$72,687.30	$276,189.69
all other descriptions	$782,239.07	$1,511,217.18	$299,342.50	—	—	—	2,592,798.75
Lime and Roman or water cement	—	—	96,445.95	$208,665.34	—	—	305,111.29
Machinery including shafting, gearing [1]	—	—	—	—	1,400,130.13	1,213,858.04	2,613,988.17
Masts, spars, and vessel blocks [1]	—	—	29,927.31	25,043.52	—	—	54,970.83
Molasses, produced from sugar-cane	—	—	54,971.78	90,851.36	98,759.30	—	244,582.44
Monuments [1]	—	—	170,419.37	329,216.63	121,701.63	88,568.27	709,905.90
Naphtha [1]	—	—	4,445.19	36,032.03	—	—	40,477.22
Oil, essential [1]	—	—	5,024.80	15,833.85	9,783.19	8,593.41	39,235.25
distilled from crude petroleum	643,626.83	2,201,573.20	2,951,213.87	5,178,138.94	4,827,911.62	4,244,646.51	20,047,110.97
coal	6,335.26	53,755.60	95,998.90	139,257.11	76,850.09	37,244.16	409,441.12
lard, linseed, etc.	114,219.27	217,291.45	414,546.72	607,224.77	—	—	1,353,282.21
Paints and painters' colors	20,119.84	25,535.33	37,684.77	63,329.98	—	—	146,669.92
Paper, pasteboard, binder board	311,434.97	686,675.85	1,082,475.82	1,172,114.76	743,077.33	340,398.22	4,336,176.95
Petroleum, crude	—	—	229,545.94	2,186,151.37	—	—	2,415,697.31
Photographs and sun pictures	—	—	21,209.19	26,582.48	130,230.37	105,559.57	283,581.61
Pianofortes and other instruments [1]	—	—	259,383.77	418,144.26	425,594.39	348,900.32	1,452,022.74
Pickles, preserved fruits, meats and fish	62,533.63	110,991.16	172,313.55	193,859.81	—	—	539,698.15
Pins	15,402.60	22,009.70	24,802.48	37,993.44	31,390.64	29,827.50	161,426.36
Plated and Britannia ware [1]	—	—	—	—	143,373.78	128,078.40	271,452.18
Pottery ware	22,961.65	47,424.83	93,220.54	164,857.05	88,307.45	—	416,771.52
Pumps, garden engines, and hydraulic rams [1]	—	—	—	—	36,923.65	—	36,923.65
Quicksilver produced from ore	—	—	29,541.71	10,019.00	—	—	39,560.71
Repairs of engines, cars, carriages	—	—	294,437.15	784,392.34	—	—	1,078,829.49
ships and other vessels	—	—	36,835.61	63,999.49	—	—	100,835.10
Saddlery, harness, trunks, and valises [1]	—	—	—	—	663,020.30	482,335.68	1,145,355.98
Safes, fire and burglar proof [1]	—	—	—	—	94,926.42	68,081.12	163,007.54
Sails, tents, shades, awnings	3,770.85	35,945.73	78,272.34	81,873.58	—	—	199,862.50
Saleratus, and bicarbonate of soda	23,003.37	32,974.32	31,609.54	44,674.24	—	—	132,251.47
Salt	118,579.03	298,911.82	335,348.95	456,100.60	253,305.93	—	1,462,246.33
Scales [1]	—	—	—	—	55,252.21	43,261.06	98,513.27
Screws, wood	28,759.70	62,943.36	122,692.61	226,590.10	172,522.55	73,788.16	687,296.48

[1] Reported in 1863 and 1864 under more general heads.

TABLE XXIV (*continued*)

Articles taxed	1863	1864	1865	1866	1867	1868	Total
Sewing machines [1]	—	—	—	—	$294,505.41	$301,523.58	$596,028.99
Ships and other vessels	$1,747.70	$167,513.98	$347,217.65	$355,478.16	—	—	871,957.49
Silk	44,167.10	97,652.60	216,188.81	445,766.15	274,889.96	132,912.07	1,211,576.69
Silver	18,371.88	36,949.97	59,768.40	128,522.22	88,615.92	58,330.27	390,558.71
Slate, sandstone, finished or dressed	—	—	80,458.38	154,124.81	—	—	234,583.19
Slaughtered animals	710,812.57	698,549.73	1,261,357.09	1,291,570.51	262,210.75	6,030.37	4,230,531.02
Soap, soft [1]	—	—	23,198.47	38,151.76	—	—	61,350.23
not perfumed	248,931.46	408,300.03	694,041.37	1,122,030.48	571,485.10	350,011.67	3,394,800.11
perfumed	17,475.32	40,701.65	74,176.34	165,842.48	155,679.13	61,227.49	515,102.41
Spices	36,061.89	65,446.19	49,572.24	72,435.70	70,280.79	48,100.10	341,896.91
Starch	15,679.89	35,926.32	61,232.58	112,230.23	—	—	225,069.02
Steam engines, locomotive and marine	229.37	65,434.20	772,360.01	1,189,484.78	704,524.67	447,747.53	3,179,780.56
Steel	40,657.22	91,768.37	174,052.54	212,662.53	17,406.29	—	536,546.95
Stereotypers and lithographers	—	—	43,483.81	95,358.11	—	—	138,841.92
Sugar, raw and brown	261,044.58	1,267,616.28	323,790.19	567,530.70	500,296.35	372,930.26	3,293,208.36
refined	93,418.09	873,139.85	1,720,612.96	2,337,404.70	2,065,165.17	1,435,394.17	8,525,134.94
Thread and twine [1]	—	—	583,225.38	955,970.36	307,737.30	167,309.87	2,014,242.91
Tinware [1]	—	—	—	—	374,935.73	94,618.69	469,554.42
Tobacco, of all descriptions	2,578,972.43	7,086,684.74	8,017,020.63	12,339,921.93	15,245,477.81	14,947,107.53	60,215,185.07
cigars and cigarettes	476,589.29	1,255,424.79	3,087,421.51	3,476,236.86	3,661,984.39	2,951,675.26	14,909,332.10
snuff	34,466.18	240,934.24	283,351.92	698,173.80	798,364.69	745,308.24	2,800,599.07
Turpentine, spirits of [1]	—	—	8,461.68	248,178.07	423,592.65	417,014.97	1,097,247.37
Umbrellas, parasols	49,735.11	68,769.94	111,146.67	229,491.31	—	—	459,143.03
Varnish and japan	40,130.88	92,356.40	149,981.50	251,227.21	151,450.11	—	685,146.10
Watches and watch chains [1]	—	—	—	—	71,061.43	55,961.84	127,023.27
Water, soda [1]	—	—	76,779.73	178,262.78	—	—	255,042.51
mineral	832.68	7,014.49	8,766.18	9,537.88	—	—	26,151.23
Wine, made from grapes	8,823.64	28,302.80	34,739.28	51,616.26	—	—	123,481.98
Zinc, oxide of	15,805.69	28,275.61	41,641.54	48,242.62	—	—	133,965.46
Manufactured articles increased in value [1]	—	—	—	—	523,971.05	543,956.86	1,067,927.91
Manufactures not above mentioned	5,506,243.60	10,539,918.99	10,555,379.32	13,166,662.90	8,505,986.24	3,087,621.47	51,361,812.52
Total	$20,325,829.71	$45,504,310.17	$85,967,601.52	$145,036,511.76	$111,499,368.95	$80,300,023.96	$488,633,646.07

[1] Reported in 1863 and 1864 under more general heads.

TABLE XXV

RATES OF TAXES LEVIED BY THE FEDERAL GOVERNMENT ON CARRIAGES, YACHTS, BILLIARD TABLES, WATCHES, PIANOS, AND PLATE UNDER SUCCESSIVE ACTS FROM 1862 TO 1870

Articles taxed	July 1, 1862	June 30, 1864	July 13, 1866	July 14, 1870
Carriages —				
using 1 horse and value $75 . . .	$1.00	Repealed	—	—
using 2 horses and value $75 to $200	2.00	Repealed	—	—
value $200 to $600	5.00	Repealed	—	—
over $600	10.00	Repealed	—	—
$50 to $100 . . .	—	$1.00	Repealed	—
100 to 200 . . .	—	2.00	Repealed	—
200 to 300 . . .	—	3.00	Repealed	—
300 to 500 . . .	—	6.00	—	Repealed
over 500 . . .	—	10.00	—	Repealed
Yachts —				
value not over $600	5.00	Repealed	—	—
$600 to $1000 . .	10.00	Repealed	—	—
each additional $1000	10.00	Repealed	—	—
size 10 tons or less	—	$5.00	Repealed	—
10 to 20 tons	—	10.00	Repealed	—
20 to 40 tons	—	25.00	Repealed	—
40 to 80 tons	—	50.00	Repealed	—
80 to 110 tons	—	75.00	Repealed	—
over 110 tons	—	100.00	Repealed	—
Billiard tables, for use	10.00	10.00	$10.00	Repealed
Gold watches —				
value not over $100	—	1.00	1.00	Repealed
over $100	—	2.00	2.00	Repealed
Pianos and organs —				
value $100 to $200	—	2.00	Repealed	—
200 to 400	—	4.00	Repealed	—
over 400	—	6.00	Repealed	—
Gold plate for use, per ounce Troy .	.50	.50	$.50	Repealed
Silver plate for use, per ounce Troy[1] .	.03	.03	.03	Repealed

[1] By Act of March 3, 1863, plate of religious societies was exempted.

TABLE XXVI

TAXES COLLECTED BY THE FEDERAL GOVERNMENT ON BILLIARD TABLES, CARRIAGES, PLATE, WATCHES, PIANOS, AND YACHTS, FROM 1863 TO 1871 [1]

Articles taxed	1863	1864	1865	1866	1867
Billiard-tables	$10,730.80	$67,999.59	$67,753.70	$17,353.05	$20,761.14
Carriages	243,704.05	320,076.12	322,720.21	624,457.62	183,855.58
Plate of gold and silver	108,736.58	130,090.65	118,113.57	216,574.37	287,842.93
Watches, gold	—	—	9,138.61	426,557.17	619,062.61
Pianos and organs	—	—	7,751.82	403,572.27	
Yachts for use	2,459.50	2,673.50	2,098.33	4,408.25	1,005,152.11
Imported spirits [2]	—	176,038.57	252,690.29	200.00	
Total	$365,630.93	$696,878.43	$780,266.53	$1,693,122.73	$2,116,647.37

Articles taxed	1868	1869	1870	1871	Total
Billiard-tables	$23,422.12	$22,805.92	$25,775.56	$13,487.70	$270,089.58
Carriages	224,604.85	184,035.00	190,711.45	83,005.13	2,377,170.01
Plate of gold and silver	252,563.70	204,733.13	198,115.89	90,145.84	1,606,916.66
Watches, gold	605,788.71	471,286.68	492,839.19	190,221.78	2,814,894.75
Pianos and organs					
Yachts for use	27,960.60	10,792.73	—	—	1,895,797.97
Imported spirits [2]					
Total	$1,134,339.98	$893,653.46	$907,442.09	$376,860.45	$8,964,868.97

[1] *Ex. Doc. No. 4*, 2d Sess., 46th Cong., 1879–80, pp. 172–74.
[2] Tax imposed by Act of March 7, 1864, on imported spirits on hand when the law went into effect.

TABLE XXVII

RATES OF TAXES ON CERTAIN CLASSES OF SALES LEVIED BY THE FEDERAL GOVERNMENT UNDER SUCCESSIVE ACTS FROM 1862 TO 1870

Subject of tax	July 1, 1862	June 30, 1864	March 5, 1865	July 13, 1866	March 2, 1867	June 20, 1868	July 14, 1870
Auction sales	1/10%	1/4%	—	1/10%	—	—	Repealed
Brokers' sales of							
Merchandise	—	1/8%	—	1/20%	—	—	Repealed
Stocks and bonds, on par value	—	1/20%	—	1¢ per $100 by stamps	—	—	—
Notes, bills of exchange, securities	—	1/20%	—				
Bullion and coin	—	1/20%	1/10%				
Without license	—	50% additional	—	5¢ per $100	—	—	—
Cattle, each $1000 over $10,000	—	—	—	$1.00	—	—	Repealed
Apothecaries, Butchers, Confectioners, Plumbers and gas fitters — each $1000 over $25,000	—	—	—	—	$1.00	—	Repealed
Dealers —							
Wholesale, each $1000 over $50,000	—	—	—	1.00	—	—	Repealed
liquor, each $1000 over $50,000	—	—	—	1.00	—	Repealed	—
each $1000 over $25,000	—	—	—	—	—	$10.00	—
sales of other merchandise, each $1000 over $25,000	—	—	—	—	—	1.00	Repealed
Leaf tobacco, each $1000 over $10,000	—	—	—	—	—	2.00	—
Other tobacco, each $1000 over $1000	—	—	—	—	—	2.00	—
Manufacturer, sale of untaxed articles, by Act of March 31, 1868, each $1000 over $5000	—	—	—	—	—	2.00	Repealed

TABLE XXVIII

RECEIPTS FROM TAXES ON CERTAIN KINDS OF SALES COLLECTED BY THE FEDERAL GOVERNMENT FROM 1863 TO 1871[1]

Kinds of sales	1863	1864	1865	1866	1867	1868	1869	1870	1871	Total
Apothecaries' . .	—	—	—	—	—	$1,489.79	$1,940.16	$4,094.46	$812.52	$8,336.93
Auction	$64,003.87	$141,231.58	$410,175.92	$503,251.35	$240,248 63	186,727.50	175,078.52	160,884.43	49,421.83	1,931,023.63
Butchers' . . .	—	—	—	—	203.56	5,796.71	10,822.60	11,200.62	2,649.76	30,673.25
Brokers', cattle .	—	—	—	—	67,674.23	110,858.96	120,718.20	131,803.76	49,709.96	480,765.11
commercial . .	—	—	596,474.24	870,080.00	415,169.97	286,438.46	301,579.03	339,784.16	123,430.59	2,932,956.45
stocks and bonds	—	—	2,202,792.92	1,429 829.77						
foreign exchange	—	—	432,343.23	152,417.56	906,599.22	231.33	—	—	—	6,591,375.49
gold and silver .	—	—	420,457.23	1,046,704.23						
Confectioners' . .	—	—	—	—	—	67.76	2,366.39	2,196.70	329.48	4,960.33
Dealers'	—	—	—	—	2,369,464.70	4,002,655.99	4,081,696.19	4,023,100.05	1,264,566.19	15,741,483.12
in liquor, on other sales	—	—	—	—	—	—	9,055.51	299,575.97	87,438.09	396,069.57
Manufacturers' .	—	—	—	—	—	—	3,501,962.66	3,863,113.05	2,070,910.18	9,435,985.89
Plumbers' and gas fitters' . . .	—	—	—	—	—	1,642.54	1,619.77	1,641 77	373.48	5,277.56
Total . . .	$64,003.87	$141,231.58	$4,062,243.54	$4,002,282.91	$3,999,360.31	$4,595,909.04	$8,206,839.03	$8,837,394.97	$3,649,642.08	$37,558,907.33

[1] *Ex. Doc. No. 4*, 2d Sess., 46th Cong., 1879–80, pp. 163–166.

TABLE XXIX

GROSS RECEIPTS FROM ALL INTERNAL TAXES LEVIED BY THE FEDERAL GOVERNMENT FROM 1863 TO 1871[1]

Articles and Occupations taxed	1863	1864	1865	1866	1867	1868	1869	1870	1871	Total
Spirits	$5,176,530.50	$30,329,149.53	$18,731,422.45	$33,268,171.82	$33,542,951.72	$18,655,630.90	$45,071,230.86	$55,606,094.15	$46,281,848.10	$286,663,030 03
Tobacco	3,097,620.47	8,592,098.98	11,401,373.10	16,531,007.83	19,765,148.41	18,730,095 32	23,430,707.57	31,350,707.88	33,578,907.18	166,477,666.74
Fermented liquors	1,628,933.82	2,290,009.14	3,734,928.06	5,220,552.72	6,057,500.63	5,955,868.92	6,099,879.54	6,319,126.90	7,389,501.82	44,696,301.55
Banks	—	2,837,719.82	4,940,870.90	3,463,988.05	2,046,562.46	1,866,745.55	2,196,054 17	3,020,083.61	3,644,241.53	24,016,266.09
Stamps	4,140,175.29	5,894,945.14	11,162,392.14	15,044,373.18	16,094,718.00	14,852,252.02	16,420,710.01	16,544,043.06	15,342,739.46	115,496,348 30
Manufactures[2]	17,235,801.81	36,921,266.40	74,579,807.46	128,522,179.17	91,793,542.06	61,655,932.93	3,345,362.95	3,017,027.70	3,631,516.10	420,702,436.58
Gross receipts	1,661,273.51	3,426,446.32	9,853,377.12	11,262,429.82	7,444,719 00	6,280,069 34	6,300,998.82	6,894,799.99	2,800,563 44	55,924,677 36
Sales	64,003.87	141,231.58	4,062,243.54	4,002,282.91	3,999,360 31	4,595,909.04	8,206,839.03	8,837,394.97	3,649,642 08	37,558,907 33
Licenses[3]	4,799,195.73	5,205,508.94	9,806,914.25	14,144,418.05	13,627,903.25	11,889,549 09	9,940,917.02	11,020,787.78	5,002,452.85	85,437,646.96
Incomes	2,741,858.25	20,294,731.74	60,979,329.46	73,434,709.12	66,014,429.34	41,455,598.36	34,791,855.84	37,775,873.62	19,162,650.75	356,651,036.48
Legacies	56,592.61	311,161.02	506,751.85	924,823.97	1,228,744.96	1,518,387 64	1,244,837.01	1,672,582.93	1,430,087.34	8,893,969 33
Successions	—	—	39,951.32	246,154.88	636,570.19	1,305,023.60	1,189,756.22	1,419,242 57	1,074,979 79	5,911,678.57
Schedule A	365,630.93	696,878.43	780,266.53	1,693,122.73	2,116,674.37	1,134,339 98	893,653.46	907,442.09	376,860 45	8,964,868.97
Passports	8,406.00	11,001.00	27,408.29	31,149.00	28,217.00	28,280.00	29,453.00	22,756.00	8,205.00	194,875.29
Substitute brokers	—	—	2,130.00	610.00	—	—	—	—	—	2,740.00
Collections in South by special tax agent	—	—	1,974,107.72	64,262.15	—	—	—	—	—	2,038,369.87
Direct taxes	1,485,103.61	475,648.96	1,200,573.03	1,974,754.12	4,200,233.70	1,788,145 85	765,685.61	229,102.88	580,335.37	12,699,583 13
Penalties	27,170.14	193,600.48	520,362.70	1,142,853.20	1,459,170.80	1,256,881.59	877,088.79	827,904.72	636,980.35	6,942,012 77
Total	$42,488,296.54	$117,621,397.48	$214,304,209.92	$310,971,842.72	$270,056,446.20	$192,968,710 13	$160,805,029.90	$185,464,970.85	$144,591,511.61	$1,639,272,415 35

[1] Compiled from various reports of the Secretaries of the Treasury and the Internal Revenue Commissioners.
[2] Not including tobacco, cigars and snuff.
[3] Not including licenses for manufacturing and sale of spirits and tobacco.

BIBLIOGRAPHY

ADAMS, HENRY CARTER. *The Science of Finance.* An Investigation of Public Expenditures and Public Revenues. Henry Holt & Co., New York, 1898.

ALDRICH, NELSON W. *Wholesale Prices, Wages, and Transportation.* Report by Mr. Aldrich from the U.S. Senate Committee on Finance, March 3, 1893. Government Printing Office, Washington, 1893.

ALLEN, J. G. *A Concise Review of some of the Proper Sources of Revenue.* Containing suggestions for collecting the tobacco and whiskey tax, with a chapter on spirit meters. Sherman & Co., Philadelphia, 1868.

ANDREWS, JOHN B. *Phosphorous Poisoning in the Match Industry in the United States,* in *Bulletin of the Bureau of Labor,* XX, 31–146, (January, 1910). Government Printing Office, Washington, 1910.

Anonymous. *The Income Tax,* in *Bankers' Magazine and Statistical Journal,* XLVIII, 428–35 (December, 1893). Homan's Publishing Company, New York, 1893.

ARMSTRONG, WILLIAM H. *National Internal Revenue Taxation in its Relation to Temperance and Prohibition.* National Temperance Society and Publication House, New York, 1889.

BASTABLE, C. F. *Public Finance.* Third Edition. Macmillan & Co., London, 1903.

BEADLE & CO. *The Tax Law Decisions.* Beadle & Co., New York, 1863.

BOLLES, ALBERT SIDNEY. *The Financial History of the United States from 1789 to 1860.* D. Appleton & Co., New York, 1883.

———. *The Financial History of the United States from 1861 to 1885.* D. Appleton & Co., New York, 1886.

BOSTON BOARD OF TRADE. *Report on Internal Taxation.* Made to the Government of the Board, April 10, and after full discussion, unanimously adopted April 11, 1862. John Wilson & Son, Boston, 1862.

BOUTWELL, GEORGE S. *A Manual of the Direct and Excise Tax System of the United States.* Including the forms and regulations established by the Commissioner of Internal Revenues, the decisions and rulings of the Commissioner, together with extracts from the correspondence of the office. Little, Brown & Co., Boston, 1863.

BOUTWELL, GEORGE S. *The Taxpayer's Manual.* Containing the entire Internal Revenue Laws with the tables of taxation, exemptions, stamp-duties, etc., and a complete alphabetical index. Little, Brown & Co., Boston, 1866.

BRICE, S. M. *Financial Catechism and History of the Financial Legislation of the United States, from 1862 to 1882.* Franklin Printing Co., Chicago, 1882.

BRYANT, WILLIAM CULLEN, *and* GAY, SYDNEY HOWARD. *A Popular History of the United States.* From the First Discovery of the Western Hemisphere by the Northmen to the End of the Civil War. Vol. IV. Chas. Scribner's Sons, New York, 1881.

BUMP, ORLANDO F. *Internal Revenue Statutes now in Force.* With notes referring to all decisions of the courts and departmental rulings, circulars, and instructions reported to October 1, 1870. Baker, Voorhis & Co., New York, 1870.

BURGESS, JOHN WILLIAM. *The Civil War and the Constitution.* Two volumes. Charles Scribner's Sons, New York, 1901.

BURROUGHS, W. H. *A Treatise on the Law of Taxation, as imposed by the States and their Municipalities, or Other Subdivisions, and as exercised by the Government of the United States, particularly in the Customs and Internal Revenue.* Baker, Voorhis & Co., New York, 1877.

CANARD, N. F. *Principles d'Économie politique.* F. Buisson, Paris, 1801.

CARVER, T. N. *The Shifting of Taxes*, in *Yale Review*, v, 258–71 (November, 1896). The Tuttle, Morehouse & Taylor Press, New Haven, Connecticut, 1897.

CHADWICK, FRENCH ENSOR. *Causes of the Civil War, 1859–1861*, in *The American Nation: A History*, vol. 19. Harper & Brothers, New York and London, 1906.

CHICAGO CITIZENS. *Proceedings of the Meeting to memorialize Congress in Favor of Revenue Reform, held by the Citizens of Chicago at Farwell Hall, April 2, 1870.* Free Trade League, Chicago, 1870.

COOPER, JAMES M. *The Government the Partner of the Manufacturer.* W. S. Haven, Pittsburg (1865?).

COSTELLOE, B. F. C. *The Incidence of Taxation.* Ward & Foxlow, London, 1893.

DANIELS, WINTHROP MORE. *The Elements of Public Finance, including the Monetary System of the United States.* Henry Holt & Co., New York, 1899.

DEWEY, DAVIS RICH. *Financial History of the United States.* Longmans, Green & Co., New York, 1909.

DRESSER, HORACE E. *The New Internal Revenue Law, approved June 30, 1864.* With copious marginal references, a complete analytical index, and tables of taxation. D. Appleton & Co., New York, 1864.

——— *The United States Internal Revenue and Tariff Law.* (Passed July 13, 1870), together with the Act imposing Taxes on Distilled Spirits and Tobacco, and for Other Purposes (approved July 20, 1868), and such Other Acts or Parts of Acts relating to Internal Revenues as are now in effect. Harper & Brothers, New York, 1870.

EASTMAN, FRANK MARSHALL. *Taxation for State Purposes in Pennsylvania.* Kay & Bro., Philadelphia, 1898.

ELY, RICHARD T., *assisted by* FINLEY, JOHN H. *Taxation in American States and Cities.* Thomas Y. Crowell & Co., New York (Cop. 1888).

EMERSON, CHARLES H. *The Internal Revenue Guide.* Containing all the internal revenue laws, codified and arranged in the appropriate places, with all amendments substituted for sections or parts of sections repealed, with decisions, rulings, tables of taxation, exemptions, stamp-duties, etc., and full digest and alphabetical index. Samuel Bowles & Co., Springfield, Massachusetts, 1866.

——— *Handbook of Internal Revenue for Popular Use.* Samuel Bowles & Co., Springfield, Massachusetts, 1868.

ESTEE, CHARLES F. *The Excise Law.* (Approved July, 1862); and all the Amendments, together with the Instructions and Blank Forms, Decisions, and Regulations of the Comissioner, with Full Marginal Notes and References, and a Minute Analytical Index. Fitch, Estee & Co., New York, 1863.

FISHER, IRVING. *The Rate of Interest; its Nature, Determination, and Relation to Economic Phenomena.* The Macmillan Company, New York, 1907.

HILL, JOSEPH A. *The Civil War Income Tax,* in *Quarterly Journal of Economics,* VIII, 416–52. George H. Ellis, Boston, 1894.

HOWE, FREDERIC C. *Taxation and Taxes in the United States under the Internal Revenue System, 1791–1895.* An historical sketch of the organization, development, and later modification of direct and excise taxation under the Constitution. Thomas Y. Crowell & Co., New York (Cop. 1896).

——— *Federal Revenue and the Income Tax,* in *Annals of American Academy of Political and Social Science,* IV, part 1, 557–81 (January, 1894). Philadelphia, 1894.

HYNDMAN, HENRY MAYERS. *Commercial Crises of the Nineteenth Century.* Charles Scribner's Sons, New York, 1892.

JENKIN, FLEEMING. *Papers Literary, Scientific, etc.* Vol. II. Edited by Colvin, Sidney, and Ewing, J. A., with a memoir by Robert Louis Stevenson. Longmans, Green & Co., London, 1887.

JONES, WILLIAM H. *Federal Taxation and State Expenses.* G. P. Putnam's Sons, New York, 1887.

KELLEY, WILLIAM DARRAH. *Reasons for Abandoning the Theory of Free Trade, and Adapting the Principles of Protection to American Industry.* Henry Carey Baird, Philadelphia, 1872.

——— *Internal Revenue Taxes.* An address delivered before the New York Tariff Convention. November 29, 1881. Printed in pamphlet form.

KENNAN, KOSSUTH KENT. *Income Taxation.* Method and Results in Various Countries. Burdick & Allen, Milwaukee, Wisconsin, 1910.

KENNEDY, JOSEPH C. G. *Preliminary Report on the Eighth Census, 1860.* Government Printing Office, Washington, 1862.

KINSMAN, DELOS O. *The Income Tax in the Commonwealth of the United States,* in *Publications of the American Economic Association,* 3d series, IV, 559–684 (November, 1903). The Macmillan Company, New York, 1903.

LAWRENCE, WILLIAM. *The Law of Claims against the Government.* Including the mode of adjusting them and the procedure adopted in their investigation in House Report No. 134, 2d Sess., 43d Cong., 1874–75. Government Printing Office, Washington, 1875.

——— *Decisions of the First Comptroller in the Department of the Treasury of the United States.* With an appendix, vol. III. Government Printing Office, Washington, 1882.

MCDONALD, JOHN. *Secrets of the Great Whiskey Ring and Eighteen Months in the Penitentiary.* W. S. Bryan, St. Louis, Missouri, 1880.

MANUFACTURERS' CONVENTION. *Proceedings of the National Convention of Manufacturers held at Cleveland, Ohio, December 18–19, 1867.* Sanford & Hayward, Cleveland, Ohio, 1867.

MANUFACTURERS OF SPIRITS. *Appeal to Congress for a Revision of the Internal Revenue Law, concerning Distilled Spirits.* Gibson Bros., Washington, 1867.

MITCHELL, WESLEY CLAIR. *A History of the Greenbacks.* With special reference to the economic consequences of their issue, 1862–65. University of Chicago Press, Chicago, 1903.

MITCHELL, WESLEY CLAIR. *Gold, Prices, and Wages under the Greenback Standard.* The University of California Press, Berkeley, 1908.

MORSE, JOHN T., JR. *A Treatise on the Law of Banks and Banking.* Fourth edition, revised, rearranged, and greatly enlarged by Frank Parsons. Little, Brown & Co., Boston, 1903.

OLMSTED, FRANK Z. *The Tobacco Tax*, in *Quarterly Journal of Economics*, v, 193–219 (January, 1891). George H. Ellis, Boston, 1891.

PALGRAVE, R. H. INGLIS. *Dictionary of Political Economy.* Vol. I, 1894; vol. II, 1896; vol. III, 1899. Macmillan & Co., London.

PLEHN, CARL C. *Introduction to Public Finance.* Third Edition. The Macmillan Company, New York, 1909.

——— *Finances of the United States in the Spanish War*, in *Chronicle of the University of California*, I, 419–63 (October, 1898). University of California Press, Berkeley, 1898.

PHILADELPHIA BOARD OF TRADE. *Communication to the Committee on Finance of the Senate of the United States; proposing a Plan of Equitable Taxation to meet the Expenses of the Government.* Collins, Philadelphia, 1862.

——— *Report of a Special Committee, on National Finance and Taxation, upon a bill reported by the Committee of Ways and Means to the United States House of Representatives, March 3, 1862.* King & Baird, Philadelphia, 1862.

PHILADELPHIA DRUG EXCHANGE. *Stamp Tax on Medicinal Preparations.* Collins, Philadelphia, 1873.

POST, REUBEN L. *Digest of the Internal Revenue Laws of the United States, as amended by the Act approved March 3, 1865.* John P. Morton & Co., Louisville, Kentucky, 1865.

PURDY, LAWSON. *The Burdens of Local Taxation and Who Bears Them.* Public Policy Publishing Company, Chicago, 1901.

REDFIELD, AMASA A. *A Handbook of the United States Tax Law (approved July 1, 1862).* With all the amendments to March 4, 1863, comprising the decisions of the Commissioner of Internal Revenues, together with copious notes and explanations. Second Edition. John S. Voorhies and Baker & Godwin, New York, 1863.

RICHARDSON, JAMES D. *A Compilation of the Messages and Papers of the Presidents; 1789–1897.* Vol. IX. Government Printing Office, Washington, 1898.

SCHUCKERS, J. W. *The Life and Public Services of Salmon Portland Chase.* D. Appleton & Co., New York, 1874.

SELIGMAN, EDWIN R. A. *Taxation of Corporations*, in *Political*

Science Quarterly, v, 269–308 (June, 1890); 438–467 (September, 1890). Ginn & Co., Boston, 1890.

SELIGMAN, EDWIN R. A. *On the Shifting and Incidence of Taxation*, in *Publications of the American Economic Association*, 1st Series, VII, 123–309 (March and May, 1892).

——— *Essays in Taxation.* Seventh Edition. Macmillan & Co., New York, 1895.

——— *The Income Tax. A Study of the History, Theory, and Practice of Income Taxation at Home and Abroad.* The Macmillan Company, New York, 1910.

——— *The Shifting and Incidence of Taxation.* Columbia University Press, New York, 1910.

SHERMAN, JOHN. *Selected Speeches and Reports on Finance and Taxation from 1859 to 1878.* D. Appleton & Co., New York, 1879.

SMITH, ADAM. *An Inquiry into the Nature and Cause of the Wealth of Nations.* Edited by James E. T. Rogers. Second edition. The Clarendon Press, Oxford, 1880.

SMITH, GOLDWIN. *Letter on the Income Tax, to J. and L. Pruyn, Dated January 26, 1866*, in Albany *Evening Journal*, March 6, 1866, p. 1, cols. 4–5.

SPAULDING, ELBRIDGE GERRY. *A Resource of War.* The Credit of the Government made immediately available. History of Legal Tender Paper Money issued during the Great Rebellion; being a Loan without Interest and a National Currency. Second Edition. Express Printing Company, Buffalo, New York, 1869.

STAUFFER, F. H. *The Income Taxpayer's Guide and Pocket-Register.* S. A. Wylie, Lancaster, Pennsylvania, 1866.

TOWNSEND, S. P. *Our National Finances.* Macdonald & Swank, New York, 1866.

UNITED STATES TAX ASSESSORS. *Suggestions of Amendments of the Excise Tax Law, as Recommended by a Convention of United States Tax Assessors.* George C. Rand & Avery, Boston, 1864.

VIDOCQ, U. S. *The Secret of Internal Revenue;* exposing the Whiskey Ring, Gold Ring, and Drawback Frauds. Edited by F. E. Felton. William Flint, Philadelphia, 1870.

VON HOCK, CARL FREIHERRN. *Die Finanzen und die Finanzgeschichte der Vereinigten Staaten von Amerika.* J. G. Cotta'schen Buchhandlung, Stuttgart, 1867.

WALLACE, HENRY E. *An Exposition of the United States Tax Law (passed July 1, 1862).* King & Baird, Philadelphia, 1862.

WELLS, DAVIS AMOS. *Our Burden and Our Strength; or a Compre-*

hensive and Popular Examination of the Debt and Resources of our Country, Present and Prospective. Daily Times, Troy, New York, 1864.

WELLS, DAVIS AMOS. *Report of Special Commissioner of Revenues* (1866), in *House Ex. Doc. No. 2*, 2d Sess., 39th Cong., 1866–67. Government Printing Office, Washington, 1867.

——— Same for 1867, in *House Ex. Doc. No. 81*, 2d Sess., 40th Cong., 1867–68. Government Printing Office, Washington, 1868.

——— Same for 1868, in *House Ex. Doc. No. 16*, 3d Sess., 40th Cong., 1868–69. Government Printing Office, Washington, 1869.

——— Same for 1869, in *House Ex. Doc. No. 27*, 2d Sess., 41st Cong., 1869–70. Government Printing Office, Washington, 1870. Reprint for Cobden Club, Macmillan & Co., London, 1870.

——— *The Recent Financial, Industrial, and Commercial Experiences of the United States.* Second Edition. J. H. & C. M. Goodsell, New York, 1872.

——— *Practical Economics.* A collection of essays respecting certain of the recent economic experiences of the United States. G. P. Putnam's Sons, New York, 1885.

——— *Internal Revenue Tax on Distilled Spirits, Malt Liquors, and Tobacco.* A letter to J. G. Carlisle, in *Annual Report of the Secretary of the Treasury for 1893*, 1100–16. Government Printing Office, Washington, 1893.

——— *The Theory and Practice of Taxation.* D. Appleton & Co., New York, 1900.

WEST, MAX. *The Inheritance Tax.* Second Edition. Columbia University Press, New York, 1908.

WESTCOTT, THOMPSON. *The Taxpayer's Guide.* An analytical and comprehensive digest of the internal revenue and excise tax laws of the United States. A. Winch, Philadelphia, 1863.

YEATON, CHARLES C. *A New Method of Collecting Tax on Whiskey and for the Prevention of Fraud on the Revenue.* Francis Hart & Co., New York, 1868.

PUBLICATIONS BY THE UNITED STATES GOVERNMENT

American State Papers, 1775–1815, vol. VI. Gales and Seaton, Washington, 1832.

Letters of Secretary of the Treasury to the Chairman of the Committee on Ways and Means, July 18, 1861, in *House Miscel. Doc. No. 20*, 2d Sess., 36th Cong., 1860–61.

Reports of Secretary of the Treasury on the State of the Finances (1860 to 1872); *Special Report of Secretary of Treasury* (July 4, 1861), in *Senate Ex. Doc. No. 2*, 1st Sess., 37th Cong., 1861.

Communication from the Commissioner of Internal Revenues, concerning the organization of his office and the present condition of its business, in *Senate Ex. Doc. No. 20*, 3d Sess., 37th Cong., 1862–63.

Abstracts of reports of Commissioner of Internal Revenues, 1863–72, in *Finance Reports*.

Complete Reports of Commissioner of Internal Revenues —
1866 in *House Ex. Doc. No. 55*, 2d Sess., 39th Cong., 1866–67.
1867 in *House Ex. Doc. No. 5*, 1st Sess., 40th Cong., 1867–68.
1868 in *House Ex. Doc. No. 5*, 3d Sess., 40th Cong., 1868–69.
1869 in *House Ex. Doc. No. 4*, 2d Sess., 41st Cong., 1869–70.
1870 in *House Ex. Doc. No. 4*, 3d Sess., 41st Cong., 1870–71.
1871 in *House Ex. Doc. No. 4*, 2d Sess., 42d Cong., 1871–72.
1872 in *House Ex. Doc. No. 4*, 3d Sess., 42d Cong., 1872–73.
1879 in *House Ex. Doc. No. 4*, 2d Sess., 46th Cong., 1879–80.

Statutes at Large —
Vols. 1–3, Charles C. Little and James Brown, Boston, 1850.
Vols. 12–17, Little, Brown & Co., Boston, 1863–71.
Vol. 26, Government Printing Office, Washington, 1891.

Congressional Globe, 1861 to 1872.

Report of a Commission appointed for a Revision of the Revenue System of the United States, 1865–66.

Reports of Special Commissioner of Revenues. Cf. *supra*, D. A. Wells.

A Tax Manual for Cigar Manufacturers; with Instructions, Rulings, and Decisions of the Commissioner, 1870.

Regulations concerning the abatement of taxes and assessed penalties, alleged to be uncollectible or to have been erroneously or illegally assessed, 1871.

Decisions, published by the Office of Internal Revenue, 1871.

Wholesale Prices, Wages, and Transportation. Report by Mr. Aldrich from the U.S. Senate Committee on Finance, March 3, 1893.

Sanborn, and other contracts. Letter of the Secretary of the Treasury in relation to contracts under authority of the Treasury Department, for collecting unpaid taxes. *House Ex. Doc. No. 132*, 1st Sess., 43d Cong., 1873–74.

A Compilation of the Direct Tax Laws of the United States from August 5, 1861, with Regulations and Instructions, 1874.

The Liability of States for Direct Taxes. Senate Ex. Doc. No. 24, 1st Sess., 46th Cong., 1878–79.

Letter from the Secretary of the Treasury transmitting a tabular statement of the number of farms or plantations sold for the collection of direct taxes in Virginia, Florida, Arkansas, and Tennessee. *Senate Ex. Doc. No. 85*, 2d Sess., 47th Cong., 1882–83.

Bulletin of the Bureau of Labor, No. 20, 1910.

PUBLICATIONS BY STATE GOVERNMENTS

Session Laws of the several States and Territories, 1861–64.

NEWSPAPERS AND PERIODICALS

Albany *Atlas and Argus*, 1861–1870. Albany, New York.

Atlantic Monthly, January, 1861. Boston.

Bankers' Magazine and Statistical Register. Vols. 16–24; 1863–70. New York.

Commercial and Financial Chronicle; Bankers' Gazette, Commercial Times, Railway Monitor, and Insurance Journal. Vols. 1–15; 1865–72. Boston.

Economist. The Weekly Commercial Times, Bankers' Gazette, and Railway Monitor; a political, literary and general newspaper. Vols. 19–28; 1861–70. London.

Harper's Weekly; a Journal of Civilization. Vol. IV; 1861. New York.

Internal Revenue Record and Customs Journal. Vols. 1–16, 1865-72. New York.

The Nation. Vols. 1–10; 1865–70. New York.

New York *Times*, 1861–1872. New York.

New York *Tribune*, 1861–1872. New York.

COURT REPORTS

Reports of the United States Supreme Court.

Reports of the United States Circuit Courts.

Reports of the several state courts.

Federal Cases, comprising cases argued and determined in the Circuit and District Courts of the United States. West Publishing Co., St. Paul, 1894–98.

American Law Review, vols. 1–4. Little, Brown & Co., Boston, 1866–70.

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